



Appeal Decision

Site visit made on 27 February 2025

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2025

Appeal Ref: APP/V1260/W/24/3347839

5 Grenfell Road, Bournemouth, BH9 2UD

- 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 Cawdor Lettings Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2023-25710-A.
 - The development proposed is Change of use from a Class C4 HMO to a Sui Generis HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, the appellant submitted a Unilateral Undertaking (UU) that secures a financial contribution towards mitigation measures in association with the Dorset Heathlands, Special Protection Area (SPA), Ramsar Site, and Special Area of Conservation (SAC) (collectively referred to as the 'Dorset Heathlands'). The Council has agreed this overcomes its second reason for refusal, which relates to European designated habitat sites.
3. However, through consulting with Natural England during the appeal, evidence relating to recreational pressures on designated habitat sites in the New Forest, has also come to light. Indeed, Natural England advises that any additional residential development within a 13.8km zone of influence (ZOI) of the New Forest designated sites, should not be approved without first securing appropriate mitigation. The appeal scheme falls within this ZOI and so this matter was subsequently raised with main parties.
4. Since the submission of the appeal, an updated National Planning Policy Framework (the Framework) was published in December 2024. In respect of matters of pertinence to this appeal there have been no fundamental changes to national policy.

Main Issues

- i) The main issues are the effect of the proposal on: i) the integrity of European Designated Sites; ii) the living conditions of neighbouring residents with regards to noise and disturbance; and iii) the character and appearance of the area.

Reasons

European Designated Sites

The appeal site lies within the ZOI of several European designated sites that are protected under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations).

The New Forest Designated Sites

5. The New Forest is one of the largest tracts of semi natural vegetation in the country. The area hosts three international wildlife site designations: firstly, the New Forest SPA. This is internationally significant for its breeding and overwintering bird species, including breeding populations of Dartford Warbler, Nightjar, Woodlark, Honey Buzzard, Hobby Falcon, Wood Warbler and Hen Harrier.
6. The New Forest is also designated as a SAC for its habitats and non-avian species of European importance. This designation reflects the unique mosaic of habitats across the New Forest including heathland, grassland, woodland, wetland, bog and open water together with species that it supports, notably Stag Beetles, Southern Damselfly, and Great Crested Newts.
7. Finally, the New Forest is also listed as a Ramsar site, due to it containing areas of wetland that support relevant flora and fauna of international importance.
8. The conservation objectives for the New Forest SPA, SAC and Ramsar sites (collectively referred to as the New Forest Designated Sites) are to ensure the integrity of the sites are maintained or restored as appropriate. This includes through maintaining or restoring the extent, distribution, structure and function of the habitats and qualifying features, as well as supporting processes on which the habitats or qualifying features rely on.
9. There is a strong body of evidence¹ showing how increasing levels of access to the New Forest Designated Sites can have negative impacts on wildlife. Issues are varied and include disturbance, increased fire risk, contamination and damage.
10. Growth in housing and overnight accommodation in the surrounding area has been identified as having potentially harmful impacts on the nature conservation designations, through facilitating increased access. In line with the extensive evidence studies, and advice from Natural England, it has been recognised that housing growth, and increased bedroom numbers including through tourism or Housing in Multiple Occupation (HMO) developments, within a 13.8km ZOI will have the potential to generate cumulative impacts.
11. In this case, the proposal would result in a net increase of one bedroom within the existing HMO, allowing for an increase in the population within the ZOI. There is a reasonable likelihood that new residents at the appeal property would visit the New Forest Designated Sites for recreation purposes. Although this may be minimal by itself, I cannot rule out beyond all reasonable scientific doubt that the proposal would not have a likely significant effect on the sensitive interest features of the habitat sites, from human pressures, either alone or in combination with other proposals. Taking a precautionary approach, I therefore find that the proposed

¹ As detailed within the New Forest Strategic Access Management and Monitoring Strategy 2023, prepared by Footprint Ecology.

development would be likely to have a significant effect on the New Forest Designated Sites.

12. The Habitat Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of designated habitat sites. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the New Forest Designated Sites.
13. A draft New Forest Strategic Access Management and Monitoring Strategy (SAMM) (April 2025) (the draft Strategy) has been prepared by nine planning authorities that are within the defined ZOI of the New Forest Designated Sites. The draft strategy sets out a range of access management and monitoring measures to mitigate the impacts from increased recreation associated with new development in the relevant authority areas. A package of mitigation measures has also been costed as part of the draft Strategy, while per dwelling tariffs have been calculated based on visit rates from each planning authority, providing a tiered tariff structure.
14. Notably, whilst the draft Strategy is primarily focused on Use Class C3 development, it identifies that other forms of development may also give rise to impacts on the designated sites, including HMOs. Furthermore, it highlights that in general each unit within a HMO could be considered a single dwelling, albeit the precise rate of SAMM contribution from such forms of development may need to be considered on a case by case basis.
15. Although the draft Strategy appears to be rather well progressed and it indicates the likely emerging mitigation opportunities, the strategy has yet to be formally adopted. Nor do I know the likely timescales for its adoption including what further processes it needs to pass. Accordingly, based on the evidence before me, there is currently insufficient certainty that the identified mitigation measures contained within the draft Strategy, as well as the mechanisms to secure them, will come to fruition.
16. Main parties have suggested that mitigation could be secured either through a planning obligation or via use of a pre-commencement/Grampian condition to prevent development until such time as full details of the necessary mitigation have been provided. Evidence has also been provided to demonstrate that such approaches have been endorsed by Natural England.
17. Despite the appellant indicating a willingness to enter into a legal agreement to remedy the situation, there is not one before me that would secure the necessary mitigation towards the New Forest Designated Sites.
18. A suggested pre-commencement condition has been put to me. However, the condition lacks clarity as to what the required mitigation would comprise. Notably, it is unclear whether it would involve mitigation projects anticipated to be delivered under the draft Strategy (once finalised) or some other unknown form of mitigation. The suggested condition is therefore imprecise, as I cannot be certain as to what mitigation would be secured or whether it would be effective. Even if, it is the intention for the mitigation to be secured in line with the draft Strategy, given the uncertainties highlighted above, I cannot presently be sure that this could be relied upon.

19. The suggested condition also includes the potential for mitigation to be provided through financial contributions in accordance with adopted mitigation strategies of neighbouring local planning authorities. However, there is no suitable mechanism before me to ensure that any applicable financial contributions would be appropriately secured, provided to the relevant neighbouring planning authority and that the monies would ultimately be spent on those mitigation measures identified in the neighbouring LPA's strategies. Indeed, there is no robust evidence before me to suggest that the neighbouring local planning authorities are even agreeable to such a solution. For example, through a memorandum of understanding between the local planning authorities regarding collection, pooling and spending of monies on relevant mitigation projects.
20. Consequently, I find that the suggested condition is imprecise, such that it would not meet all the relevant tests of conditions outlined under the Framework. Nor am I satisfied that the suggested condition would suitably mitigate the impact of the development on the integrity of the New Forest Designated Sites.
21. Based on the available evidence, I cannot therefore ascertain that the proposed development would not adversely affect the integrity of the New Forest Designated Sites. In the light of a negative assessment on the implications on designated sites, the Habitats Regulations require consideration as to whether there are any alternative solutions and if not, whether there are any imperative reasons of overriding public interest. However, irrespective of whether there may be any alternative solutions to the project, the provision of a larger HMO, taking into account the merits of the case, is not sufficient to amount to such overriding public interest. The Habitats Regulations indicate that permission must therefore not be granted.
22. Bringing the above together, taking a precautionary approach, I find that the proposed development would adversely affect the integrity of the New Forest Designated Sites. The proposal would therefore conflict with Policy CS32 of the Bournemouth Christchurch and Poole Core Strategy (adopted 2012) (the Core Strategy), which seeks to protect the integrity of Internationally designated sites.
23. In reaching the above view, I note the appeal decisions², highlighted by the Council, whereby the Inspector found that appropriate mitigation measures to address pressures on the New Forest Designated Sites could be secured. However, from the limited evidence before me, the appellants in those cases had an executed S.106 legal agreement in place to secure agreed mitigation measures.

The Dorset Heathlands

24. The Dorset Heathlands host priority habitat species including birds, lizards and snakes, as well as other species that can be found in lowland, heathland, wetlands and dunes. Again, the conservation objectives for the Dorset Heathlands are to ensure the integrity of the sites are maintained or restored as appropriate. This includes through maintaining or restoring the extent, distribution, structure and function of the habitats and qualifying features, as well as supporting processes on which the habitats or qualifying features rely on.

² Appeal References: APP/V1260/W/24/3351431; and APP/D1265/W/23/3336518.

25. The Dorset Heathlands are also under significant pressure from increased public access and recreational use, which amongst other matters results in disturbance, trampling and eutrophication at the habitat sites, thereby threatening their integrity.
26. The proposal again through an increase in the population living within the ZOI of the Dorset Heathlands, is likely to have a significant effect on the sensitive interest features of the habitat sites from human pressures, either alone or in combination with other proposals. Without mitigation it would therefore cause harm to nature conservation.
27. In respect of the Dorset Heathlands, the Council's mitigation strategy is set out in the Dorset Heathlands Planning Framework and Supplementary Planning Document (adopted 2020) (the SPD). This seeks to secure financial contributions from all new residential developments within proximity of the protected sites, with contributions to be used towards SAMMs.
28. Provided the above mitigation requirements can be appropriately secured, the available evidence indicates that the proposal would not have an adverse effect on the integrity of the Dorset Heathlands, when considered either alone or in combination with other proposals. This is an approach that has been endorsed by Natural England.
29. The appellant has submitted a signed and dated Unilateral Undertaking (UU) that appropriately commits to the relevant financial contributions towards SAMMs measures outlined in the SPD. In this respect, I find that the financial contributions comply with Paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations (2010), as amended.
30. In light of the above, I am satisfied that with the proposed mitigation measures in place, secured through a planning obligation, the appeal scheme would not have an adverse effect on the integrity of the Dorset Heathlands. It would also accord with the Core Strategy Policy CS33 and the aims of the SPD. The policy and related guidance, together, seek to protect the integrity of the Dorset Heathlands.
31. Still, this does not overcome the identified likely adverse effects to the integrity of the New Forest Designated Sites.

Living Conditions of Neighbouring Residents

32. The appeal site is a detached dwelling, located within a residential area that predominantly consists of large family homes. The appeal property is already in use as a six-bedroom house in multiple occupation (HMO) (Use Class C4), having previously secured planning permission for such use.
33. The pattern of activity within an HMO is likely to be somewhat different to that associated with a family dwelling, given the potential for several individual occupants to be leading independent lives. In turn this could lead to different domestic activities or coming and goings from the property at a range of different times.
34. These factors could manifest in additional noise and disturbance for nearby neighbours. Indeed, whilst there is no evidence of any statutory noise complaint or police callout, a small number of objections to the proposal were received from neighbouring residents. These cite issues of noise and disturbance as well as anti-

social behaviour associated with the current occupation of the appeal site by students, and due to its use for short-term holiday rentals outside term times.

35. The level of noise and disturbance, as well as anti-social behaviour, arising from a HMO is likely to largely depend on the individual character of its occupants, as well as the landlord's management. Nevertheless, given the size and nature of the HMO, I consider that the occupation of one additional bedroom is unlikely to increase the level of activity at the appeal property to a discernible degree over and above its current levels of occupation.
36. A condition could also be attached to the grant of a permission to limit the creation of further bedrooms within the appeal property and thus provide a degree of control over the future number of occupants.
37. Additionally, despite the appeal property being in an area where dwellings are generally occupied by families, large single households are also capable of potentially generating significant levels of noise and activity similar to the appeal proposal. This could include through variations in the pattern and activity undertaken by different generations of a family living together.
38. For the above reasons, I find that the proposed development would not unacceptably harm the living conditions of neighbours. Accordingly, I find there to be no conflict with Policy CS41 of the Core Strategy or saved Policy 6.17 of the Bournemouth District Wide Local Plan (adopted 2002) (the Local Plan). Together these policies, amongst other matters, seek to ensure that new development including those involving HMOs are compatible with the amenities of neighbouring residents.

Character and Appearance

39. The appeal scheme would primarily involve internal works to accommodate the additional proposed bedroom, albeit minor changes to one of the first-floor windows on the front elevation of the property are proposed. The limited extent of works required would therefore have no significant impact on the appearance of the appeal property within the streetscene.
40. The appeal property has been extended in the past but benefits from a generous sized plot including rear garden space. These characteristics, alongside the well-proportioned internal layout, ensure that the property is of a sufficient size to facilitate the extent of accommodation and associated activity.
41. Additionally, I do not consider that the proposal would greatly intensify the level of activity within the appeal property, such that it would result in any fundamental changes to the existing character of the appeal site or surrounding area.
42. Consequently, I am also satisfied that the proposal would not harm the character or appearance of the area. In respect of this main issue, the appeal scheme therefore also complies with Policy CS41 of the Core Strategy Bournemouth Local Plan (2012) and of saved Policy 6.17 of the Bournemouth District Wide Local Plan (2002), in so far as they seek to ensure proposals are designed to be compatible with the existing character of the area.

Other Matters

43. Various appeal decisions have been submitted by both main parties to support their respective arguments over the potential impacts of the proposal. There are, however, contextual differences between the cited decisions and the current appeal. For example, in relation to their respective locations, including presence of other HMOs and the character of surrounding built form, the precise nature of the proposals, as well as likely policy contexts. Additionally, the conflicting findings of various appeals put before me, to my mind, emphasises the need for the current appeal to be determined on its own merits.

Planning Balance and Conclusion

44. The appeal scheme conflicts with the development plan. The development plan policies that seek to protect Internationally important habitat sites are consistent with the aims of the Framework and the requirements of the Habitat Regulations. As such, I afford them significant weight.
45. The Council is unable to demonstrate a five-year housing land supply, which engages Paragraph 11 of the Framework.
46. Even though the proposed development does not involve a new dwelling, it would provide new accommodation for a potential unrelated occupant of the existing property. As such, there would be some socio-economic benefits associated with the appeal scheme's delivery, albeit such benefits would be extremely limited.
47. Nonetheless, as I have found that the scheme would be likely to have a significant adverse effect on the integrity of habitat sites, in accordance with Paragraphs 11di) and 195 of the Framework, it is a case that the policies in the Framework provide a clear reason to dismiss the appeal.
48. The proposal conflicts with the development plan read as a whole and there are no other material considerations, including the provisions of the Framework, that indicate a decision other than in accordance with it. The appeal is therefore dismissed.

Lewis Condé

INSPECTOR