



Appeal Decision

Site visit made on 16 September 2025

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/V1260/W/25/3361396

6 Stroud Gardens, Christchurch BH23 3QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mrs Claire O'Neill against Bournemouth Christchurch and Poole Council.
 - The application Ref is 8/24/0718/HOU.
 - The development proposed is the consent for an outbuilding for use in part associated with short term holiday lets and partly for family use as spare bedroom accommodation.
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Decision

1. The appeal is dismissed and planning permission for an outbuilding for use in part associated with short term holiday lets and partly for family use as spare bedroom accommodation is refused.

Applications for costs

2. An application for costs was made by Mrs Claire O'Neill against Bournemouth Christchurch and Poole Council. That application is the subject of a different decision.

Preliminary Matters

3. The description of development on the application form refers to 'Retrospective' consent. However, as the term 'retrospective' is not a description of development, I have omitted it from the description in the header.
4. Planning permission is sought for a building for use as a short-term holiday let and when not being used for that purpose, as additional living accommodation by the family living at 6 Stroud Gardens. I note that the appellant states they did not apply for the building as a separate dwelling or separate unit of tourism accommodation and nor would they want it to be. However, that is specifically what the planning application sought permission for. The Council have provided evidence to show that the building is being advertised as an Airbnb. I shall deal with the appeal on this basis. Should the appellant wish to use the proposed tourist accommodation for family members then that would be permissible in any event.
5. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission, should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issues, which I set out below. However, having regard to my duties as Competent Authority for the purposes of

this appeal, under the Conservation of Habitats & Species Regulations 2017, I have elevated the effect of the proposal on nearby SSSI's and protected European Habitat sites, to a main issue.

6. From my visit it was apparent the development for the outbuilding for additional residential accommodation had been carried out. Therefore, the application is submitted retrospectively for development already enacted, and I have determined the appeal on that basis.
7. Questions have been raised regarding the validity of the appeal. The planning application was submitted and registered as a householder application. However, the Council had advised the applicant that due to the change of use nature of the application, this was incorrect and requested a revised application form, prior to making a decision. The applicant did not submit the requested amended application form, choosing to take the application to appeal for non-determination within the specified timescale. Appeals for failure to determine within the specified timescale are not suitable for the householder appeal process, being dealt with under the written procedure in line with full applications. Therefore, I consider that the appeal is valid and have proceeded to a determination on that basis.

Main Issues

8. The main issues are, i) the effect of the development on the character and appearance of the local area, and ii) the effect of the development on the living conditions of existing and future occupiers, and iii) whether the development demonstrates compliance with vehicular and cycle parking standards, and iv) the effect of the development on international and nationally designated sites of importance for biodiversity.

Reasons

Character and Appearance of the Area

9. The appeal property is a single storey pitched and hipped roofed bungalow which is located on a small residential cul-de-sac of other such properties, which form a tight grouping of dwellings.
10. The appeal development has replaced a previous single storey garage with a single storey flat roofed residential annexe. The development is sited in a similar location to the previous garage, though covers a larger footprint. It is set well back from the public highway and is located to the rear of the property's driveway and adjacent to the shared boundaries with 5 Stroud Gardens and 25 Stroud Park Avenue. The height of development is broadly consistent with the eave's levels of the host dwelling, and those of surrounding properties.
11. The appeal development is finished in an unstained natural timber cladding. Whilst this does not match the host dwellings materials, it does provide a soft aesthetic which blends with the property's boundary treatment. The development is subservient to the host dwelling, and in scale, bulk and height is not dissimilar to a detached garage, as is common in the locality. Whilst it is located close to adjacent boundaries, this pattern of development is common in the area, where garages and outbuildings are constructed either close to or on common boundaries.
12. For the above reasons, I therefore find the development accords with Policy HE2 of the Local Plan, which requires, among other things, that development is of high

quality, reflecting and enhancing areas of recognised local distinctiveness, in scale, layout, height and visual impact.

Living Conditions of Existing and Future Occupiers

13. Whilst the application plans do not define the specific uses of the individual rooms within the appeal development, at my visit, the larger room was fitted out as a bedroom, with a double bed and occasional chairs for lounging. This had a shower cubicle in one corner of the room and a section of worktop with kitchenette facilities in another. An en-suite room contained a WC and a worktop with cupboard, drawer and sink facilities.
14. As such, the development has all the facilities for independent use, and is accessible independently from the host dwelling, via the driveway and a gate giving access to the rear garden of the property, with which it would share use.
15. The application specifically notes use in part associated with short-term holiday lets, along with family use as a spare bedroom. Caselaw has established that it is a matter of fact and degree in each case, as to whether a proposal constitutes a residential annexe or a separate dwelling unit.
16. The appeal development provides living accommodation capable of independent use from the host dwelling for its occupants. Whilst it would share the host dwellings parking and garden areas, occupants could freely access and use the development without relying on the host dwelling. Its use by family members would fall within the definition of being part and parcel of the host dwelling and would therefore not create a separate planning unit.
17. However, its use for holiday let accommodation would result in its occupants having no familial link with the occupants of the host dwelling. It would therefore represent use by a separate residential household, or series of separate residential households, which as a matter of fact and degree, would, overall, result in the creation of a separate new dwellinghouse. This use by persons not within the family unit of the host dwelling, is relevant to the consideration of privacy and overlooking between the two residential units for their respective occupants.
18. The front elevation of the appeal development is situated almost in line with the side elevation of the host dwelling, and separated by a little over a metre, where a gate providing access between the host dwelling's driveway to the shared rear garden is located. A patio, for use by occupiers of the annexe, is present outside the front elevation of the development. The building has patio doors through which access to and from the annexe is provided, together with an adjacent window to the en-suite facilities. These patio doors and window overlook the patio and the garden beyond, which is shared with the host dwelling.
19. The rear elevation of the host dwelling is situated at 90 degrees to the appeal development, with two large windows located in this rear elevation. These windows are in very close proximity to the window and patio doors of the appeal development, directly overlooking the patio and garden areas. This close relationship would potentially be acceptable; were the appeal development being occupied solely by members of the host dwelling's familial unit.

20. However, the application is also for use as holiday let accommodation. Accordingly, the annexe and the adjacent external areas, could reasonably be expected to be used by those renting the accommodation for a holiday. Any use of the annexe and adjacent external spaces by its occupants, would be subject to severe levels of overlooking from occupants of the host dwelling. Similarly, the occupants of the host dwelling would also be subject to severe levels of overlooking from occupants of the annexe, particularly when they are using the external patio area. The development would therefore fail to provide acceptable levels of privacy for occupants of both the appeal development and the host dwelling and would be harmful to their respective amenity.
21. For the above reasons, I find the development conflicts with Policy HE2 of the Local Plan, which requires, among other things, development to be of high quality and to provide acceptable relationships to nearby properties including minimising general disturbance to amenity.

Compliance with Parking Standards

22. The application drawings contain no information which clearly identifies the extent and location of existing vehicular and cycle parking for the host dwelling. Further, the drawings fail to identify the extent of any vehicular or cycle parking provision for the appeal development.
23. To satisfy Policy KS12 of the Local Plan, the development should identify the parking provision, including layout and design, cycle storage and EV charging facilities in accordance with Bournemouth, Christchurch and Poole (BCP) Council Parking Standards - Supplementary Planning Document (2021) (SPD). Holiday accommodation is required to provide 1 car parking space per unit and 1 cycle parking space per bed space. Such provision should be within the plot, to all required standards and should not result in any adverse conflicts and/or highway impacts, on or off site.
24. At my visit it was apparent that there was a significant amount of hardstanding present to provide for off-street parking, both for the host property and the annexe. The application has failed to provide explicit information required to demonstrate compliance with the BCP Parking Standards SPD. Nevertheless, the significant area of available off-street parking at the appeal property, leads me to conclude that this could be satisfactorily overcome by the application of an appropriately worded condition, as supported by paragraph 56 of the National Planning Policy Framework (the Framework). On that basis conflict with Policy KS12 of the Local Plan would be avoided.

Effect on International and Nationally Designated Sites of importance for biodiversity

25. The appeal site lies within the vicinity (beyond 400m but within 5km) of the Dorset Heathlands SPA (Special Protection Area), Dorset Heathlands Ramsar Site and Dorset Heaths SAC (Special Area of Conservation). These Habitat Sites are all recognised for their national and international importance for nature conservation. They host protected priority habitats and species including Hen-harrier, Merlin, European nightjar, Woodlark and Dartford warbler, as well as other typical species of forest and heath areas.

26. Evidence shows that these protected European sites are under significant pressure from an increasing number of people living nearby. As the population grows, urbanising and increased visitor number effects from human pressures and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species.
27. The Dorset Heathlands Planning Framework 2020-2025 – Supplementary Planning Document (SPD), sets out a strategy for the avoidance and mitigation of impacts of new residential development upon the Dorset Heathlands, including tourism development, through financial contributions from developers for mitigation schemes within the area. The SPD defines the mitigation process and contribution requirements for different forms of development.
28. The holiday let would create an additional residential planning unit for use as a short-term holiday let. The development would, in combination with other development proposed in the area, be likely to have a significant effect on the nearby European Habitat sites. It would therefore be subject to the requirements of the SPD for a financial contribution towards mitigation. The SPD identifies in Appendix B that self-catering holiday accommodation should contribute at 60% of the rate for a residential flat. The Council have identified that this would equate to 60% of £360 = £216.00 plus a £75.00 administration fee.
29. The contribution for mitigation would normally be secured through a signed s106 agreement with the Council or Unilateral Undertaking (UU) from the appellant. No such s106 agreement or UU was included in the application or has been submitted as part of the appeal process.
30. For the above reasons, I find the development to be contrary to Policies ME1 and ME2 of the Local Plan, which require, among other things, that development protects all types of nature conservation, habitats and internationally designated sites, and protects the Dorset Heathlands through the provision of mitigation measures. The development would also be contrary to the policies within Chapter 15 of the Framework, which require, among other things, that development protects and enhances biodiversity.
31. The appeal site is also within the catchment area of the Christchurch Waste-Water Recycling Facility, which discharges enriched water into the River Avon, which is designated as a SAC under the Conservation of Habitats and Species Regulations 2017(the Habitats Regulations) (as amended) and is also listed as a Ramsar site. The Avon is also designated as a Site of Special Scientific Interest under the Wildlife and Countryside Act 1981 (as amended). The designated sites are in unfavourable condition due to high levels of nutrients, the river being phosphorous limited which means that any nutrient addition, either directly or indirectly should be deemed to have an adverse impact on its integrity.
32. Natural England advise that all new residential developments, including those of a small scale, within the catchment area should achieve 'nutrient/phosphate neutrality'. If they do not, then additional phosphate loads could enter the water environment causing likely significant effect on the River Avon SAC.
33. As the appeal is against non-determination by the LPA, I am acting as the decision maker for the purposes of the application and therefore, as the Competent Authority for the purposes of the Habitats Regulations (as amended).

34. The appeal development has not demonstrated that it is nutrient neutral. It has also not provided a method by which the effects of additional nutrients produced by the development could be mitigated. It has therefore not demonstrated that it would not have, either on its own or in combination with other development, a likely significant effect on the ecological integrity of the River Avon SAC as a European designated site. Consequently, I find the development would not accord with the Local Plan or with paragraph 193 of the Framework.
35. For the above reasons, I therefore conclude that the development would conflict with Policy ME1 of the Local Plan, which requires, among other things, that development protects all types of nature conservation, habitats and internationally designated sites. The development would also be contrary to the policies within Chapter 15 of the Framework, which require, among other things, that development protects and enhances biodiversity.

Other Matters

36. The Environment Act (2021) (the EA) places a requirement on all development (save for specified exceptions), to deliver a mandatory biodiversity net gain (BNG) of at least 10%. To demonstrate the gain, it is important that a base line of the biodiversity values present on the development site, is established prior to commencement of the development, against which to calculate the required minimum 10% increase in biodiversity. A standard metric is used as the methodology for such calculations, and the Government has published information and guidance in this respect.
37. The application contained no information to establish a baseline of biodiversity values against which to demonstrate that the appeal development provides the mandatory 10% gain required by the EA. Further, by providing no information with the application, it fails to demonstrate if there is a 'de minimis' exemption based on whether any habitat is affected. The Framework requires in paragraph 187(d), development to minimise impacts on and provide net gains for biodiversity.
38. For the above reasons, I find that the appeal development fails to demonstrate compliance with the statutory framework for biodiversity net gain. The development is therefore contrary to Policy CS30 of the Local Plan which requires, among other things, development to provide a net gain in biodiversity. The proposal would also be contrary to the policies within Chapter 15 of the Framework, which require, among other things, that development protects and enhances biodiversity.
39. The Council cannot demonstrate a 5-year Housing Land Supply (5YHLS) as required by the Framework. The Council have stated that as of 1 April 2024, they had a housing land supply figure of 2.1years, allowing for a 20% buffer. Accordingly, paragraph 11(d) of the Framework is engaged for decision making purposes.
40. However, the appeal development lies within the vicinity (beyond 400m but within 5km) of the Dorset Heathlands SPA, Dorset Heathlands Ramsar Site and Dorset Heaths SAC, and within the catchment area of the River Avon SAC. All of these are designated habitat sites as referenced in paragraph 11(d)(i) and footnote 7 of the Framework. Therefore, the policies within section 15 of the Framework need to be considered, specifically paragraphs 193 and 195.

41. Paragraph 193 of the Framework sets out broad principles to be followed when determining planning applications. These include, if significant harm to biodiversity cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused. Paragraph 195 goes on to state 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 appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site'.
42. The appeal development has not demonstrated compliance with the statutory framework for BNG. Further, it has not demonstrated that it would be nutrient neutral, nor provided a mechanism (e.g. a signed s106 agreement with the Council or UU) for mitigation of the urbanisation and increased visitor effects of development on nearby European Habitat sites. I have therefore found the appeal development would have Likely Significant Effect through increased visitor numbers and recreational effects, and on the water quality of nearby international and nationally important protected Habitat Sites, with no form of mitigation being put forward. Exercising the precautionary principle, I have found the proposal to be contrary to the nature conservation policies of the Local Plan. I have therefore not consulted with Natural England, and have not carried out an Appropriate Assessment, as it would not alter the harm I have found.
43. Support for the appeal development was expressed by a local resident during the application process. However, the comments were general in nature and did not overcome the serious issues I have found with the appeal development.
44. The appellant has suggested that were the use of the appeal development limited to one which was supported as being incidental to the enjoyment of the main dwelling house, that this would be a fallback option for the appellant. This may well be the case in land use terms. However, the building is 2.6m in height. It is located within 2m of the boundaries of the dwellinghouse and as such, would be in excess of the 2.5m height limitation to be classed as Permitted Development under The Town and Country Planning (General Permitted Development) (England) Order 2015.

Conclusion

45. For the reasons set out above, I conclude that the appeal development would be contrary to the development plan, read as a whole, and that there are no material considerations, including policies in the Framework, that would justify determining other than in accordance with it. Therefore, the appeal is dismissed.

D R Kay

INSPECTOR