Planning Inspectorate

Appeal Decision

Site visit made on 10 December 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Appeal Ref: APP/B1740/W/24/3351255
18 Highlands Road, Barton-on-Sea, New Milton BH25 7BL

- 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 Vinay Haria against the decision of New Forest District Council.
- The application Ref is 24/10475.
- The development proposed is the use of annexe as one-bedroom dwelling house (change of use).

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal scheme would impact upon the internationally important habitat sites of the New Forest Special Protection Area (SPA), Special Area of Conservation (SAC), and Ramsar; the Dorset Heathlands SAC, SPA, and Ramsar; the River Avon SAC, SPA, and Ramsar; and the Solent and Southampton Waters and SACs, SPA and Ramsar. One of the reasons for refusal of the original application was the impact of the scheme upon these habitat sites had not been adequately mitigated. To address these matters, during the appeal process the appellant submitted a signed and dated Unilateral Undertaking (UU) to provide contributions for avoidance, mitigation and monitoring measures. The matter of the habitat sites shall be returned to later.

3. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024, and the comments of the main parties were sought concerning the revised national policy. Consideration of those received has occurred in reaching the appeal decision.

Main Issues

4. The main issues in this case are:-

   - the effect of the scheme upon the character and appearance of the area;
   - the effect upon the living conditions of nearby and future residents with particular regard to privacy; and
   - the effect upon protected habitat sites.

Reasons

Character and Appearance

5. The appeal property is a detached bungalow positioned within a mostly residential area comprising detached houses and bungalows of a variety of ages and styles. As identified in the New Milton Local Distinctiveness Supplementary Planning Document (2010), the area is characterised by well-mannered streets. There are numerous long, straight roads with the dwellings being set back from the public highway behind similar sized, mostly regularly shaped front gardens. The houses and bungalows are often centrally positioned within their plots.

6. To one side of 18 Highlands Road (No 18) is the attached, single storey flat roofed annexe, that is linked to the main dwelling with an internal connecting door. Currently used as holiday accommodation, the annexe has its own front door and its occupiers would share the use of the rear garden of the host dwelling. There is a large, detached garage close to the eastern side of the property, with much of the front garden being gravelled to provide parking.

7. In an area of large bungalows and houses that have an active relationship with the public highway, the use of the annexe as a separate dwelling would appear incongruously discordant. The annexe is positioned close to the property boundary to the rear of the bungalow and its garage. It has no active frontage nor legible presence within the street scene as it is hidden from view by the surrounding buildings and tall boundary fences. Given this concealment from the public realm and that the area is characterised by large, detached dwellings with active relationships to the public realm, the provision of a new home tucked away behind existing buildings would appear harmfully cramped and contrived.

8. The annexe is an existing building and it is recognisably ancillary as an extension to the existing bungalow, and one that has a modest, subservient appearance. It would be a small home, with a flat roof and organic, piecemeal form that would reflect the constraints of the site rather than the spacious, planned nature of the surrounding dwellings. The appearance of the annexe would not change, and consequently it would still appear as physically subservient to the bungalow, rather than as a separate dwelling. The use of the annexe as a separate home would result in a dwelling that would not only appear cramped and constrained within its plot, but would also be at harmful odds with the distinctive appearance of the area.

9. Even a small home would result in the duplication of residential uses, boundary treatments, paraphernalia, and also the daily comings and goings of a household, all of which would be concentrated within a tightly constrained plot. Such a concentration of uses and activity would be at odds with the generous, spatial positioning and relationships that characterises the area, as well as appear curiously contrived given that the dwelling would be hidden from public view. There could be space for additional parking provision within the front garden of the property and the annexe would be provided with its own rear garden. Nevertheless, the front door would be set well back into the property as well as being screened from view behind the garage. This and the retention of the use of the garage for the main property, along with the narrow and contorted access path to the front door, would all serve to exaggerate the awkwardly cramped nature of the scheme.

10. The area is characterised by large, detached homes, and whilst some of these have been extended to spread across the breadth of their plots, there are very few other examples of attached dwellings within the area. Highlands Retreat is a detached building with a separate access onto the highway, but it is used for holiday accommodation, thereby having more of a transient use and impact than a small home. As regards the property to rear of 57/59 High Street, Milford-on-Sea, this is within a very different context than the appeal scheme as it is within an area where there is a tight grain of almost contiguous buildings.

11. 20 and 20A Highlands Road are large, detached bungalows and although they do not have active frontages with the highway, the presence of the dedicated drive gives them some engagement and relationship with the public realm, unlike the appeal proposal which would be concealed behind other buildings. Given these differences none of these comparisons forms a binding precedent for allowing the appeal.

12. For these reasons the scheme would have an adverse impact upon the character and appearance of the area, and the suggested conditions would not overcome these fundamental harms. The scheme would fail to accord with the requirements of Policy ENV3 of the New Forest District Council Local Plan Planning Strategy (2020) (LP) and Policy NM4 of the New Milton Neighbourhood Plan (2021) (NP), as these seek, amongst other things, high quality development that contributes positively to local distinctiveness, and that which is sympathetic to its context, including having active building frontages.

Living Conditions

13. Within the rear roof of No 18 there are two dormer windows. The nearest window to the appeal property is obscure glazed, with the other window serving a bedroom. Despite the bedroom window being furthest from the annexe, it would afford users of the room with views into the appeal property. Whilst the view would be oblique, it would be close and elevated, providing views into the windows and rear garden of the annexe. A tall fence could be provided as a conditional requirement, but given the angles and elevation of the views available from No 18, future occupiers of the annexe would still be overlooked to an unacceptable level.

14. To access their front door, future occupiers would have to walk very close to windows of two rooms of No 18, one of which is a bedroom and the other currently an office. Whatever the use of these rooms in No 18, there would be an unacceptable loss of privacy to their occupiers, as well as the frequent, ongoing disturbance associated with the comings and goings of a separate household. Such an arrangement may be found within terraced houses flanking the public footway, and whilst the lack of privacy would be acceptable to the existing occupiers of No 18, others may be uncomfortable with the situation, and particularly so given the use of the rooms and that such movements and associated loss of privacy could occur at any time of the day or night.

15. The scheme would not afford existing or future occupiers with acceptable living conditions. The suggested conditions would not overcome these concerns, and the scheme would be contrary to the requirements of LP Policy ENV3 as this policy seeks, amongst other things, that development avoids unacceptable

effects by reason of overlooking or other adverse impacts on residential amenity.

16. Although not a matter for the main parties, there is a window in the side elevation of the living room that has not been shown on the submitted drawings. The position of this window would result in an unacceptable loss of privacy both for the future occupiers of the annexe and for those of No 18 as each household would have very immediate and direct views into each other's property. The positioning of the suggested tall fence would not overcome this substantial harm. However, as the appeal is being dismissed for other reasons, this matter has not been pursued with the main parties.

Habitat Sites

17. The New Forest habitat site designations recognise the national and international importance of these habitats that include bogs, marshes, heaths, and woodlands that support a variety of rare birds and insects. The Dorset Heathlands host priority habitats and species, including birds, lizards, and snakes as well as other typical species of heathlands. The River Avon SAC, SPA and Ramsar comprises a bio-diverse lowland river system that supports nationally and internationally important species, including aquatic flora, invertebrates, fish, and birds. The river flows into the Solent and Southampton Waters SPA, Ramsar and Solent Maritime and Isle of Wight Lagoon SACs, and these support a range of wading and migratory birds. All these sites are under significant pressure from public access and use, and a net increase in the number of dwellings and occupiers in the area would increase the pressure upon these important sites, and impact upon air quality. In addition, drainage and wastewater discharge from residential development is contributing to elevated levels of nitrogen in the River Avon and Solent and Southampton waters, and this enrichment causes eutrophication that in turn impacts upon the foodstuffs available for birds.

18. Given the location of the scheme, future occupiers would be likely to impact upon these habitat sites thereby having a significant effect upon their integrity, including through increased recreational uses, air quality impacts, and wastewater. In order to avoid impact upon the integrity of the habitat sites, LP Policy ENV1 and Policies DM2 and DM3 of the New Forest District Council Local Plan Sites and Development Management (2014) (SDM) and the supporting Supplementary Planning Documents (SPD), Air Quality Assessment in New Development (2022) and Mitigation for Recreational Impacts (2021), require that development will not be permitted where it would adversely affect protected species or their habitats, and that it would only be permitted where any necessary mitigation, management or monitoring measures are secured in perpetuity.

19. The appellant has provided a completed UU to secure the required measures, and the Council has suggested a Grampian condition to address the phosphate levels in the River Avon Catchment. The contributions in the UU appear consistent with the requirements of the above referenced LP and SDM Policies and those of the SPD, and as the Council has not commented upon the UU, there is no evidence to dispute this. The UU would be directly related to the development, necessary to make the development acceptable in planning terms, and fairly and reasonably related in scale and kind to the development.

Having regard to the UU, the scheme would accord with the requirements of the above referenced policies.

20. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes. This duty is a requirement in the consideration of the appeal and will be returned to below.

Other Matters

21. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and the Planning Practice Guidance set out the information required with an application. This includes a plan which identifies the land to which the application relates and any other plans, drawings, and information necessary to describe the development which is the subject of the application. An application site should be edged clearly with a red line with other land in the same ownership edged by a blue one. Plans should include all land necessary to carry out the proposed development, for example, land required for access to the site from the public highway, visibility splays and car parking. In this case the red site line does not extend to the public highway nor has parking provision been included, albeit the appellant would accept a condition allowing such uses. It may be that the use of the land outside the site area could be controlled by a condition for the lifetime of the development. Notwithstanding this, given the findings on the main issues whether this would be the case has not been considered further.

Planning Balance

22. The Council cannot demonstrate a five-year housing land supply, and an additional home would make a small but important contribution to supply given the level of significant shortfall of provision in the Council's area (at about 3.07 years). The Framework also supports the development of windfall sites, with great weight occurring from the use of a site within an existing settlement. The provision of a small home rather than use of the property for tourist accommodation would be a modest benefit of the scheme. Further modest environmental benefits would accrue from the re-use of an existing building, the provision of ecological enhancements, and the location of future residents near to services and facilities.

23. Weighing against these modest benefits would be the significant harms to the character and appearance of the area, and that neither existing nor future occupiers would benefit from acceptable living conditions. These weigh very heavily against the proposal, as LP Policy ENV3 and NP Policy NM4 are broadly consistent with the Framework as it also requires that development should add to the overall quality of an area, and that there should be a high standard of amenity for existing and also for future users.

24. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse impacts in this case amount to cumulative harm which carries substantial weight, and this significantly and demonstrably outweighs the modest social, environmental and economic benefits that arise from the scheme, including the weight from the provision of an additional home, when assessed against the policies in the

Framework as a whole. It follows that the presumption in favour of sustainable development does not apply.

25. Had a different conclusion been reached, it would have been necessary to undertake Appropriate Assessments for the habitat sites and give further consideration to the likely effectiveness of the mitigation measures. In doing so regard to the UU and the suggested condition would have to be undertaken. However, as the appeal is being dismissed for other reasons, this has not been necessary.

Conclusion

26. For the above reasons the adverse impacts arising from the scheme would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these harms. The scheme would conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR