

Appeal Decisions

Site visit made on 20 September 2016

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th October 2016

Appeal A Ref: APP/G1250/W/16/3147031

2A Roberts Road, Bournemouth BH7 6LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Lincoln and Marcia Leo against the decision of Bournemouth Borough Council.
 - The application Ref 7-2015-25368-B, dated 9 September 2015, was refused by notice dated 11 January 2016.
 - The development proposed is extensions and alterations to existing boxing gym to create a new two bedroom dwelling.
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Appeal B Ref: APP/G1250/W/16/3150835

2A Roberts Road, Bournemouth BH7 6LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Lincoln and Marcia Leo against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-25368-C, dated 19 January 2016, was refused by notice dated 23 March 2016.
 - The development proposed is alterations to existing boxing gym to create two bedroom dwelling.
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Decision

1. Appeal A and Appeal B are dismissed.

Procedural Matters

2. Appeal A and Appeal B relate to the same site. The appeal proposals are both for a two bedroom dwelling but differ in their detail, including size and garden space. Although I have considered each proposal on its own merits, given that they have much in common, and in the interests of brevity, I have dealt with them in one document.
3. I have referred throughout to the proposals as Appeal A and Appeal B respectively, in accordance with the way they are listed in the header above.

Main Issues

4. The reasons for refusal are the same for both appeals. In relation to both, the Council has confirmed that it will not defend its last reason for refusal relating to the provision of a financial contribution towards affordable housing in the Borough. Therefore the remaining issues in dispute between the parties are the effect of the appeal proposals on:
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- The character and appearance of the locality;
- The living conditions of neighbouring occupiers with regard to outlook;
- Whether the appeal proposals would provide satisfactory living conditions for future occupiers with regard to outlook and private garden space;
- The effect on the safety of those using the footpath and Roberts Road; and
- The effect on the Dorset Heaths.

Reasons

Character and Appearance

5. The appeal site includes a single storey building of irregular shape which occupies most of its small site. It is accessed via a footpath which is a public right of way that runs along the rear of properties fronting Clarence Park Road linking Wheaton Road to Roberts Road. It is currently used as a boxing gym and the appellants suggest it was previously used as a commercial store and at some time in association with 2 Roberts Road.
6. The character and appearance of the locality is generally residential, comprising mainly two storey detached and semi-detached properties with rear gardens. They generally include larger plots than the appeal site and properties front onto the street. Some properties that back on to the footpath have outbuildings at the end of their rear gardens, some of which face on to the footpath. Generally, the character and appearance is residential and urban with a spacious feel.
7. The appeal proposal would be significantly bigger than the building that exists at present. It would be higher, with significantly more bulk, even though the roof would be pitched. Together with the hard surfaced area for parking, it would dominate the appeal site and appear cramped. For this reason it would appear out of character in the locality which has a more spacious character and appearance.
8. I am aware that the appellant considers the existing use to be inappropriate but I have no substantive evidence before me to support that view. I also note that the Council does not raise objection to the treatment and materials for the proposed elevations or the roof. I acknowledge that the proposed addition of a pitched roof would improve the existing building's appearance. I also note that the existing storage building would be removed in both appeal proposals and additionally a single storey section of building nearest to 2 Roberts Road in Appeal B. I am also aware that on both appeals the resultant building would be smaller than most of those nearby. Whilst the existing development on the appeal site does not replicate that in the locality, that is not reason for the amount of development proposed. All in all, together, these matters do not overcome my concern for the appeal developments' effect on the character and appearance of the locality set out above.
9. I conclude that the appeal proposal would result in unacceptable harm to the character and appearance of the locality. For this reason, it would fail to accord with Bournemouth Local Plan: Core Strategy (2012) Policy CS41. That policy seeks to ensure that all development and spaces are well designed and

of a high quality and contribute positively to the appearance and safety of the public realm.

Living Conditions – Neighbouring Occupiers

10. The appeal proposal would be on the boundary with the neighbouring properties, 2 Roberts Road and 7 Wheaton Road. In relation to No. 7, it has a rear glazed conservatory and a small rear garden, which I saw on my site visit. The increased height and bulk of the appeal proposals would dominate views from that garden and the rear conservatory and appear oppressive.
11. In relation to 2 Roberts Road, the main part of the building in both appeal proposals would be on the boundary with that rear garden. As that garden is small, the increased height and bulk of the appeal building, so close to that garden, would appear oppressive when viewed from within it.
12. I was unable to fully view the rear elevation of No. 2 on my site visit. However, if there are ground floor windows to habitable rooms on that property's rear elevation, that would add to my concern for the effect of Appeal A on the outlook from that neighbouring property. This is because that proposal includes higher development closer to the rear elevation of No. 2 than at present. In the circumstances of this appeal, this matter does not alter its outcome. However, if it did, I would have sought clarification from the two main parties on this matter.
13. I conclude that both appeals would adversely affect the living conditions of neighbouring occupiers, with regard to outlook. It would therefore fail to accord with CS Policy CS41 and Bournemouth District Wide Local Plan (2002) Policy 6.8 in this regard. These, together, aim for development that complements and respects the character and amenity of neighbouring development.

Living Conditions – Future Occupiers

Appeal A

14. The appeal building would have ground floor windows and doors on the elevation fronting the footpath only. These would have an outlook onto the small parking area and would be likely to have a vehicle parked close to them at times. As those windows and doors would provide the only outlook from the main ground floor living rooms, overall, the proposed dwelling would be an oppressive and uninviting space to live in.
15. Furthermore, as the area in front of the proposed building would be small, those windows would be close to the footpath. It is likely, therefore, that some privacy for the future occupiers would be required, in the form of a fence or planting, which again would be close to the windows which would face it. This adds to my concern for the oppressive living environment that would result in Appeal A.
16. Moreover, there would be very limited private outdoor garden space in relation to Appeal A. Whilst space would be available at the front of the proposed property, this would be dominated by parking and would not be safe for children. As the proposed dwelling could accommodate a small family, even though prospective occupiers could assess the garden space that would be

provided before occupation, this matter adds to my concern for the unsatisfactory living conditions that would result.

17. I conclude that Appeal A would result in unsatisfactory living conditions for future occupiers with regard to outlook and private garden space. It would therefore be contrary to CS Policy CS41, in this regard, which seeks development that provides a high standard of amenity to meet the day to day requirements of future occupants.

Appeal B

18. The appeal building would include doors to the living room which would overlook a small garden. They would provide an alternative outlook to that from the windows overlooking the small parking area. Even though some sort of fence or planting to provide privacy from passing traffic on the footpath is likely, on balance the living conditions that would be provided, in this regard, would be satisfactory.
19. Moreover, there would be a small garden to the side as part of this appeal dwelling, which would be regular in shape and usable. Even though it would be overlooked, I note that the first floor windows on the side elevation of 2 Roberts Road are obscure glazed. Furthermore, some overlooking into gardens is common place in a residential area such as this. For all these reasons, I consider that the proposed dwelling would provide satisfactory usable outdoor garden space.
20. I conclude that Appeal B would result in satisfactory living conditions for future occupiers with regard to outlook and private garden space. It would therefore generally accord with CS Policy CS41, in this regard.

Highway Safety

21. The appeal developments would be sited fronting onto a footpath which is a public right of way. That footpath is narrow and partly grassed and although some vehicles may use it, it is used by pedestrians, including parents and children travelling to and from a local primary school. As the footpath is narrow, a vehicle would take up most of its width and it would be difficult for pedestrians to pass safely. Furthermore, as the access and parking area to the appeal site would not enable a vehicle to exit in a forward gear, a vehicle reversing in that footpath would further reduce the safety of those using it. Also, a vehicle reversing onto Roberts Road would pose a hazard to those using that road, particularly as visibility on egress from the footpath is limited by the fence at 28 Clarence Park Road.
22. The appellants suggest that the footpath is used by some vehicles at present, including those using the gym. I noted a garage fronting onto the footpath at 26 Clarence Park Road. However, I have no substantive evidence to confirm that vehicles have accessed the gym via the footpath, the time period or numbers involved. I also note that vehicles would need to use only part of the footpath to access and exit the appeal site. However, taking all matters before me on board, the use of the footpath for vehicles resulting from the appeal developments would result in harm to road and footpath users' safety and would compromise an existing walking network.
23. On my site visit I saw a development nearby at 4 Rebbeck Mews, which is a small dwelling fronting on to the footpath that runs to the rear of properties on

Clarence Park Road near to Rebbeck Road. That footpath is surfaced in a gravel type material and at this point it has a wider feel, the dwelling has a different relationship with the footpath and the hard surfaced area in front of that dwelling is more regular in shape. Furthermore, I observed a vehicle easily exiting that site in a forward gear. These matters differentiate that development from the appeal before me.

24. Furthermore, the Council state that the appeal development does not provide enough car parking and that it would fail to accord with the Bournemouth Borough Council Parking Supplementary Planning Document (2014). At the time of my site visit, which was on a week day morning, there were some vehicles parked on the street. The numbers are likely to increase in the evening. In the absence of evidence of the parking demand of the existing boxing gym use, or that any additional parking that would be generated by the appeal development use could be accommodated on-street, I cannot be assured that it could safely be accommodated on-street in the locality. For the same reason, I do not view the appeal proposal as reducing the demand for on-street parking.
25. I conclude that the appeal developments would result in unacceptable harm to the safety of those using the footpath and Roberts Road and would be contrary to CS Policies CS41, CS16 and CS18. Such harm could not be overcome by a Grampian planning condition as suggested by the appellant. These policies together, seek development that would contribute positively to the appearance and safety of the public realm, would accord with the Council's adopted parking standards and increase opportunities for walking and cycling.

Dorset Heaths

26. A completed Unilateral Undertaking is before me to provide a mechanism to fund mitigation measures to avoid harm to the Dorset Heaths, in relation to both appeals. The Council confirms that it would satisfy its requirements. As the appeal fails on its other substantive issues, it is not necessary for me to consider this matter in any further detail.

Other Matters

27. The appellants suggest that the appeal site could be used for a number of different residential uses without the need for planning permission. However, no such proposal is before me. Whilst I acknowledge that surveillance onto the footpath may be a benefit of the appeal proposal, no substantive evidence of a public safety issue is before me, which reduces the weight I accord this matter in making my decision. I am also aware that the appeals accord with some development plan policies brought to my attention by the appellants and that it would result in an additional unit of residential accommodation in an accessible location. However, together, these matters are not sufficient to outweigh the harm that I have identified.

Conclusion

28. For the reasons given above, and taking into account all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

R Barrett INSPECTOR