
Appeal Decision

Site visit made on 12 December 2016

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 10th January 2017

Appeal Ref: APP/G1250/W/16/3157882

Land south of Warren Road, Westbourne, Bournemouth, Dorset

- 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 Frederick Fitt against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-16018-K, dated 28 April 2016, was refused by notice dated 13 July 2016.
 - The development proposed is alterations and conversion of garage to form a dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for alterations and conversion of garage to form a dwellinghouse at Land south of Warren Road (rear of 1 Drury Road), Westbourne, Bournemouth, Dorset in accordance with the terms of the application, Ref 7-2016-16018-K, dated 28 April 2016, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Frederick Fitt against Bournemouth Borough Council. This application will be the subject of a separate decision.

Procedural Matters

3. The site address in the banner heading above is taken from the application form. However, I note that the Council has amended the address on the decision notice to clarify the location as being to the rear of No 1 Drury Road. The appellant has adopted the revised wording on the appeal form and I have therefore used it in my formal decision.
4. As part of the appeal process the appellant has submitted a Unilateral Undertaking (UU) which would secure a financial contribution towards Strategic Access Management and Monitoring (SAMM) in connection with the Dorset Heathlands protected European sites. I shall return to this later.

Main Issues

5. The main issues in this case are:
 - a) whether the proposed development would provide an acceptable living environment for future occupiers, with particular reference to external amenity space, privacy, outlook, daylight and sunlight and the size of the accommodation;
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- b) the effect of the proposal on the living conditions of the occupiers of No 1 and No 3 Drury Road, with regard to external amenity space and privacy respectively; and
- c) the effect on the character and appearance of the area.

Reasons

Living environment (future occupiers)

- 6. The appeal site comprises a double garage together with an area of land adjacent to Warren Road. Originally part of the garden belonging to No 1 Drury Road, the site has been severed and is now in separate use. During my visit I saw that the building is being utilised for informal storage.
- 7. The Council has raised concerns regarding various aspects of the future living environment. I will deal with each of these issues in turn.

(i) Internal accommodation

- 8. The proposed dwellinghouse would be a 1-bed unit with an open plan kitchen and living area at ground floor and a double bedroom with bathroom at first floor. At 72 square metres the gross internal floor area would significantly exceed the minimum for a 1-bed unit in the *Technical housing standards - nationally described space standard*¹. Whilst there is nothing to indicate that the Council has formally adopted this standard, it is a relevant material consideration, especially in the absence of any local requirements. Having regard to this, and my own observations during the site inspection, I consider that the size of internal accommodation would be acceptable.
- 9. The Council raises a specific concern regarding floor to ceiling heights. I paid particular attention during my visit to the amount of headroom available at ground and first floor. In both cases it was adequate, even allowing for ceiling finishes and the possible requirement for insulation.
- 10. The ground floor accommodation would be served by glazed openings on all four sides of the building. Outlook from those on the north and east elevations would be compromised due to their proximity to the site boundaries. Nevertheless, the number of windows means that the open plan living space would be well-lit with opportunities for sunlight to penetrate the two sets of French doors. These openings would have pleasant views onto the garden. Neighbouring flatted development at Alumhurst Road would be visible from the windows but it is not so close as to be oppressive.
- 11. At first floor level the bedroom would be served by two existing window openings together with a pair of new roof lights. Further roof lights would be provided in the bathroom. This would provide a light and airy upstairs living environment together with an uninterrupted vista along Warren Road.
- 12. I have noted the comments regarding the potential for overlooking of the internal accommodation from adjoining dwellings. However, the positioning of the new ground floor openings would minimise opportunities for neighbours to gain meaningful views into the property. As such, occupiers would have an acceptable level of privacy within the building itself.

¹ Department for Communities and Local Government, March 2015

(ii) External amenity space

13. The proposed dwelling would have a dedicated area of external amenity space to the side and rear of the building. The Council raises no concerns regarding the size of this area which would be commensurate with a 1-bed residential unit. The dispute lies in the quality of the space, and more specifically whether it would enjoy acceptable levels of privacy and sunlight.
14. The land in question lies within close proximity of No 1 and No 3 Drury Road. No 3 is elevated and its first floor windows look down onto the proposed external amenity space at close proximity. Views from No 1 are blocked by a mature conifer tree on the southern site boundary. Occupiers of the modern flatted developments on Alumhurst Road to the west also have an outlook across the site, albeit there is some screening from vegetation on the boundary.
15. Parts of the garden would be heavily overlooked by neighbouring properties and from a position immediately behind the dwelling the presence of No 3 would be felt. This situation is far from ideal. However, I have given weight to the fact that the garden is not overlooked in its entirety. There are particular spaces where a degree of privacy could be created through landscaping, garden design and boundary treatment. These mitigation measures could be secured by planning condition.
16. I am mindful that this would be a small unit of accommodation which is unlikely to appeal to families. Prospective occupiers would be aware of the situation in respect of outdoor space. Furthermore, mutual overlooking of gardens in urban areas is inevitable and this particular plot of land was already overlooked when in use as garden for No 1. Having regard to these factors, the scope for mitigation and the good standard of living environment in every other respect, I do not consider that dismissal of the appeal on this single issue would be justified.
17. Concerns have been raised regarding shading within the garden. The position of the conifer tree means that it already casts a shadow over the proposed external amenity space at certain times of day. However, the area has an open aspect to the west and south-west and this would enable sunlight to reach the garden in the latter half of the day.
18. Drawing matters together on this issue, I have concluded that the internal accommodation would be spacious and well-lit, with adequate privacy and outlook. The external amenity space would be of a sufficient size and it would receive acceptable levels of sunlight. The area would be overlooked but mitigation is possible. Taken in the round, the quality of living environment would be generally good and consequently the proposal would comply with Policies CS22 and CS41 of the Bournemouth Local Plan: Core Strategy (2012) (CS) and Policy 6.8 of the Bournemouth District Wide Local Plan (2002) (LP) insofar as they seek to provide a high standard of amenity for future occupants and a pleasant and safe residential environment.

Living conditions (adjoining residents)

19. It is argued that a decision to grant permission would formalise the lack of private amenity space for No 1 Drury Road. It is unclear when the appeal site land was severed from that property. However, on the information available the arrangement is long-established and may even have predated the subdivision of No 1 into flats. Whilst I acknowledge the Council's concerns, there is no

compelling evidence to persuade me that the site would return to the adjoining property in the event of the appeal being dismissed. Accordingly, I find that the proposal would not have an adverse effect on the living conditions of the occupiers of No 1.

20. The appeal scheme would include the insertion of two roof lights into the east facing elevation of the building. These openings would serve the bathroom and the plans show them to be obscurely glazed. It is put to me that the openings would increase the perception of being overlooked for the occupiers of No 3 Drury Road. However, I consider that the neighbours would be given sufficient protection by obscured glazing and controls over opening of the roof lights.
21. I therefore conclude that the proposal would not have an adverse effect on the living conditions of the occupiers of No 1 and No 3 Drury Road. Accordingly, I find no conflict with Policies CS22 and CS41 of the CS or Policy 6.8 of the LP insofar as they seek to prevent harm to local amenity or living conditions, including the privacy of adjacent residential properties.

Character and appearance

22. The surrounding area contains a mix of houses, sub-divided dwellings and modern flatted developments. The existing garage is different to those properties in terms of its scale, form and general appearance. However, it is an established part of the street scene within Warren Road. The building was erected with planning permission and this is a clear indication that the Council was content with its design and visual impact.
23. The Council contends that the proposed dwelling would be out of character by reason that it would be a smaller residential unit of unconventional design which would not address the street in the same manner as other residential development in the area. However, it concedes that the conversion would not result in a significant change to the building's appearance.
24. The proposed changes are solely in relation to fenestration. Many of the new window openings would be inconspicuous from the street and those that would be visible would be well designed. The roof lights would be more prominent but these are common features within the local area and consequently would not appear out of keeping. Overall, the alterations being proposed are minor and in my opinion they would go largely unnoticed. The effect on the character of the building and the wider area would not be significant, particularly given the mix of architectural styles locally.
25. It is argued that there may be a temptation to open up the site by replacing or reducing the height of the fence to the front boundary. It is difficult to make an assessment given that no details are before me. However, it seems to me that a reduction in the height of the fence or replacement with a lower wall is unlikely to detract from the appearance of the locality. Indeed it is quite possible that it would lead to some enhancement. As such, the matter does not weigh against the appeal scheme.
26. Accordingly, I conclude that the proposal would not cause material harm to the character or appearance of the area. It would therefore comply with Policies CS22 and CS41 of the CS and Policy 6.8 of the LP insofar as they seek high quality design which is in keeping with its surroundings.

Other Matters

27. Local residents allege that the building was constructed with the intention to convert it to a dwelling. I have no means of knowing whether this is true. Even if it were, it would have no bearing on my consideration of the appeal which has been determined on its planning merits.
28. I have noted the concerns regarding the effect on parking within Warren Road and Drury Road. The scheme would provide 2 off-street parking spaces and this level of provision is acceptable to the Highway Authority. No firm evidence has been put forward to demonstrate that the proposal would cause harm to highway safety and therefore this matter would not justify dismissal of the appeal.
29. The financial contribution towards SAMM would combine with Community Infrastructure Levy (CIL) payments to mitigate the adverse impact of the development upon the Dorset Heathlands protected European sites, in accordance with the methodology contained in The Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (2016). The obligations contained within the UU would be necessary, directly related and fairly and reasonably related in scale and kind to the development. They would therefore comply with the tests set out in Regulation 122 of the CIL Regulations.

Conditions

30. I have considered the Council's suggested conditions having regard to paragraphs 203 and 206 of the National Planning Policy Framework and advice contained in the Planning Practice Guidance. Where necessary I have adjusted the wording to improve precision and enforceability.
31. In addition to the standard commencement condition, it is necessary to attach a condition to define the plans with which the scheme shall accord. This will provide certainty regarding the scope of the permission.
32. A condition is also necessary to secure the implementation of a landscaping scheme, in the interests of providing privacy for occupants of the development. In the interests of highway safety a condition is required to secure the provision of the off-street parking spaces. To prevent flooding a condition is needed to ensure that surface water run-off from hard surfaces is directed to a permeable or porous area or surface within the curtilage of the property.
33. To protect the privacy of neighbours I have also attached a condition to ensure that the roof lights on the eastern elevation are obscurely glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the internal floor level.
34. The Council has requested a condition to remove permitted development rights for additional windows at first floor level or in the roof, roof extensions and dormer windows. It cites the reason as being in the interests of the privacy of adjoining properties. However, this can only be justified for the eastern elevation which looks towards the garden of No 3 Drury Road. I have amended the wording accordingly.

Conclusion

35. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Existing and Proposed Ground Floor Plans, Existing and Proposed First Floor Plans, Proposed North (front) and East Elevations, Proposed South and West Elevations and Proposed view from Warren Road.
- 3) No development shall commence until full details of hard and soft landscaping have been submitted to and approved in writing by the local planning authority. The details shall include the following:
 - (i) a schedule including the species, planting sizes and densities for all new planting;
 - (ii) a plan showing the location of all new planting, together with indications of any existing trees and shrubs to be retained;
 - (iii) details of all hard surfacing and boundary treatments; and
 - (iv) a landscape maintenance plan for a minimum period of 5 years.
- 4) All new planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The landscape maintenance plan approved under condition no 3 shall be implemented in full.
- 5) The dwelling hereby permitted shall not be occupied until the access and parking spaces have been constructed and surfaced in accordance with details to be first submitted to and approved in writing by the local planning authority. The parking spaces shall be retained and kept available for the purposes of parking in connection with the development at all times.
- 6) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additional windows or other openings other than those shown on the approved plans shall be constructed above ground floor ceiling level in the east elevation of the building without the grant of planning permission from the local planning authority.
- 7) The windows in the roof on the east elevation of the building shall be glazed with obscured glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and fixed shut unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The windows shall be permanently retained as such thereafter.

- 8) Any new or replacement hard surfaced area(s) 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 curtilage of the property.

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