

Appeal Decision

Site visit made on 3 January 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 31st January 2017

Appeal Ref: APP/Q1255/W/16/3159376

Cherry Court, Cherry Close, Poole BH14 0LJ

- 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 Whitelock Co. Ltd against the decision of Poole Council.
 - The application Ref APP/16/00919/F, dated 9 June 2016, was refused by notice dated 9 August 2016.
 - The development proposed is demolish existing garages and extend existing flat block to form 3 No 2 bedroom flats with parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council informs me that the submitted s106 unilateral undertaking would overcome the second reason for refusal with regard to the effect of the proposed development on European protected sites. I have proceeded on this basis.

Application for costs

3. An application for costs was made by Whitelock Co. Ltd against Poole Council. This application will be the subject of a separate decision.

Main Issues

4. The main issues in this case are:
 - a) whether, having regard to development plan policy, the principle of flatted development on the site is acceptable;
 - b) whether the appeal scheme would provide an acceptable living environment for future occupiers, with particular regard to daylight and outlook;
 - c) the effect on the living conditions of the occupiers of the existing flats at Cherry Court, with reference to daylight, sunlight and outlook; and
 - d) the effect on the character and appearance of the area.

Reasons

Principle of flatted development

5. Policy PCS5 of the Poole Core Strategy (2009) (CS) sets out broad locations for residential development with flats and other higher density residential uses
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anticipated in central locations which are well-served by public transport and a range of facilities. Outside of these areas, criterion (ii) of the policy would permit new flats on streets or parts of streets where flats predominate, subject to certain conditions.

6. Policy PCS5 does not define the term 'part of street' and therefore the decision-maker is required to make a judgement having regard to the particular circumstances of the case. Cherry Court is the only flatted development within Cherry Close and, with the exception of an assisted care facility under construction to the north – which is accessed from a different street – the site is surrounded by conventional family housing.
7. That said, the appeal site is a discrete and fairly sizeable parcel of land when taken in the context of the street as a whole. Moreover, it is already characterised by flats. As a consequence, I consider that the provision of a small number of additional flatted units within the curtilage of the existing block would not prejudice the underlying policy objectives which are to protect family housing and prevent the harmful intensification of suburban neighbourhoods. With this in mind, I find that there would be no conflict with Policy PCS5 in respect of the principle of development. The proposal would of course need to comply with the criteria of the policy and be acceptable in all other respects. I shall move on to consider this below.

Living conditions (future occupiers)

8. The proposed development would replace an existing block of garages which backs onto a steep bank containing a number of large trees. The living areas and master bedrooms would have a pleasant southerly aspect. However, other rooms would look directly onto the bank and tree foliage. This would create a gloomy and oppressive environment within the rear living spaces and lead to an over-reliance upon artificial lighting.
9. It is argued that the back bedrooms would be used for sleeping which generally takes place after dark. That may be so, but bedrooms are habitable rooms which in my opinion should enjoy adequate levels of natural light and an acceptable outlook.
10. I appreciate that the kitchens would receive light from secondary windows in the west elevation and also some borrowed light from the living areas. However, this would not be sufficient to offset the poor living environment arising from the siting of the building directly up against the bank and trees.
11. Accordingly, I conclude that the proposal would provide an unacceptable living environment for the future occupiers of the flats. As such, the scheme would conflict with Policy PCS31 of the CS which requires the orientation and design of development to minimise the need for artificial light. It would also be contrary to the core principle of the National Planning Policy Framework (the Framework) that planning should always seek to secure a good standard of amenity for all future occupants of buildings.

Living conditions (existing residents)

12. The new extension would be attached to the gable end of Cherry Court, immediately adjacent to the bedroom windows belonging to three existing flats. These windows are west facing and consequently they receive sunlight towards the end of the day. The bedrooms currently have a pleasant open

outlook, though it is slightly more restricted at ground floor level due to the flank wall of the garages.

13. The scheme would block all sunlight to the affected windows and it would also tunnel views along the north elevation of the development and directly into the tree-lined bank. In my judgement, the impact would be overbearing and there would be a substantial loss of natural daylight to the bedrooms.
14. The adverse impact on the existing flat occupiers cannot be satisfactorily mitigated and therefore I conclude that the proposal would cause unacceptable harm to their living conditions. This would be contrary to Policy DM1 of the Poole Site Specific Allocations and Development Management Policies Development Plan Document (2012) insofar as it seeks to ensure that proposals maintain sunlight and daylight to habitable rooms in neighbouring properties and do not result in overbearing or oppressive development.

Character and appearance

15. It has been suggested that the design of the scheme is a practical response to the particular constraints and opportunities presented by the site. However, I consider that the development would read as an awkward adjunct to Cherry Court. The cranked extension would be unduly prominent and it would disrupt the simple massing of the host building. Although there would be some attempt to modernise the elevations of the existing building, the juxtaposition of roof forms would be visually incongruous.
16. I note the suggestion that the extension would continue the building line of Cherry Close and create a 'sense of comfortable enclosure' at the end of the cul-de-sac. However, I do not find these arguments persuasive. The development would be viewed in the context of Cherry Court and not as part of the wider street scene. In my view it would appear rather alien.
17. It is agreed that the development would not harm the protected trees¹ on the bank. I am content that a retaining wall could be constructed behind to provide slope stability and protect the soil structure around the root systems. However, due to the proximity of the trees to windows in the rear elevation there is a strong likelihood of residents applying to have the trees removed or excessively pruned. The appellant argues that the Council has powers to resist such applications, but given the severity of the impacts on light and outlook it may be difficult to withhold consent. The trees are a significant contributor to the amenity of the area and the scheme would place them under threat. This factor weighs against the scheme.
18. Policy PCS23 of the CS seeks a high standard of design which respects the setting and character of the site, surrounding area and adjoining buildings by virtue of factors such as siting, massing, appearance and landscaping. Policy PCS5 imposes a similar requirement, stating that the design of buildings should contribute positively to those attributes of a particular street which distinguish it. The proposal would not adequately respond to the host building and its treed setting and therefore it would cause material harm to the character and appearance of the area. This would bring the scheme into conflict with the aforementioned policies.

¹ These are covered by an area-based Tree Preservation Order.

Other Matters

19. It is put to me that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 47 of the Framework. However, I do not need to reach a definitive finding on the matter. In a scenario where paragraph 14 of the Framework is engaged the harm identified in my decision would significantly and demonstrably outweigh the modest benefits to housing delivery and the short term support to the construction industry.
20. Concerns are raised regarding overlooking of the new dwellings on the site of 3 Cherry Close. I agree that the windows in the west elevation of the development would look directly onto the private rear patio areas for these properties. However, they would be secondary openings and as such a condition could be used to require the windows to be obscurely glazed.
21. Similarly, a condition could be used to require pile foundations for the proposed bike and bin store. This would prevent harm to trees in the vicinity and address the comments of the Council's Arboricultural Officer.
22. Local residents have raised a number of other concerns including in relation to highways and surface water drainage. However, based on the information before me, these matters would not constitute reasons to dismiss the appeal.

Conclusion

23. To conclude, the proposal would provide an unacceptable living environment for future occupiers and would also adversely affect the living conditions of existing residents of Cherry Court. Furthermore, the scheme would cause material harm to the character and appearance of the area and threaten protected trees. Taken in combination, these impacts would be severe and they would bring the proposal into conflict with the environmental and social dimensions of sustainable development.
24. In light of these findings, I conclude that the proposal does not comply with the development plan taken as a whole and does not represent sustainable development in the terms of the Framework. Accordingly, even if it were the case that the Council cannot demonstrate a 5 year supply of land for housing, there are no material considerations which would warrant a decision other than in accordance with the development plan.
25. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR