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# Appeal Decision

Site visit made on 9 January 2017

**by Thomas Bristow BA MSc MRTPI**

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

**Decision date: 10 February 2017**

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**Appeal Ref: APP/E1210/W/16/3158361**

**4 Grove Road East, Christchurch, Dorset BH23 2DQ**

- 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 P Higgins against the decision of Christchurch Borough Council.
  - The application Ref 8/15/0715, dated 14 December 2015, was refused by notice dated 28 June 2016.
  - The development proposed is described in the application form as the 'severance of the plot and erection of detached bungalow with associated access and parking'.
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## Decision

1. The appeal is allowed and planning permission is granted for development described as the severance of the plot and erection of detached bungalow with associated access and parking at 4 Grove Road East, Christchurch, Dorset BH23 2DQ in accordance with the terms of the application Ref 8/15/0715, dated 14 December 2015, subject to the schedule of conditions in this decision.

## Application for costs

2. An application for costs was made by Mr P Higgins against Christchurch Borough Council, which is the subject of a separate decision.

## Procedural matter

3. This appeal follows various previous schemes for development in this location. For the avoidance of doubt I have determined the proposal before me on its particular merits.<sup>1</sup>

## Main issues

4. I consider the main issues in this appeal to be the effects of the proposal on the character and appearance of the area, and in respect of the living conditions of the occupants of nearby properties with particular reference to noise and disturbance.

## Relevant policies

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<sup>1</sup> As illustrated on supporting plans 2270/01 and 2270/02.

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5. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in this instance includes the Christchurch and East Dorset Local Plan Part 1- Core Strategy adopted by the Council on 22 April 2014 (the 'Core Strategy') and saved policies of the Christchurch Local Plan adopted originally in March 2001 (the 'Local Plan').
6. Policy HE2 'Design of new development' of the Core Strategy requires that development is compatible with its surroundings in design terms and in respect of living conditions. Saved policy HE12 of the Local Plan similarly sets out that development should integrate appropriately with the character of the area and that it respects the living conditions of occupants of nearby properties.
7. Likewise the National Planning Policy Framework (the 'Framework') establishes that planning should always seek to secure high quality design and a good standard of amenity, and that it is appropriate to seek to reinforce local distinctiveness. The Planning Practice Guidance (the 'Guidance') provides further associated guidance in this respect.<sup>2</sup>
8. Notwithstanding its age, saved policy HE12 of the Local Plan nonetheless appears consistent with the approach in the Framework and indeed the Guidance.<sup>3</sup> The appellant contends that the Council are, however, unable to presently demonstrate a five year supply of deliverable housing sites as required by paragraph 49 of the Framework. For the purposes of clarity, and in line with relevant case law,<sup>4</sup> I have initially determined the proposal in relation to the development plan and subsequently with reference to any other material consideration.

## Reasons

### Character and appearance

9. No 4 Grove Road East is a turn-of-the century dwelling set within a lengthy plot which backs on to what is aptly described as a 'depot/works building' in joint appeals Ref APP/E1210/A/10/2125801 and APP/E1210/A/10/2128321 which were dismissed via decision dated 20 September 2010 (the '2010 appeals'). The proposal before me is to subdivide the rear garden of No 4 to provide for a plot which would host a new single storey dwelling, with access thereto via the existing access which runs between the side elevations of No 4 and neighbouring No 6 Grove Road East.
10. The surrounding area is described by the Council as one of 'mixed development', where traditional detached and semi-detached dwellings predominate, however there are various more recently constructed dwellings nearby and some variety in land use. Properties located to the south of Grove Road East, as is the location of No 4, appeared to me to be set in comparatively spacious plots compared to the prevailing pattern of the built environment.

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<sup>2</sup> Including Reference ID: 26-007-20140306.

<sup>3</sup> Paragraph 215 of the Framework clarifies that the age of a policy is not in itself determinative of the weight that may be afforded to it in the present.

<sup>4</sup> In particular the judgement handed down in *Suffolk Coastal District Council v Hopkins Homes Ltd & Anor* [2016] EWCA Civ 168.

11. Properties situated nearby between Grove Road East and Avenue Road have far more modest rear gardens and, on occasion, highly limited rear elevation to rear elevation separate distances. Properties nearby along Newcroft Gardens and Portfield Close have significantly more modest plots than those to the south of Grove Road East and represent a substantially higher level of residential density.
12. Outbuildings, often substantial, are commonplace within rear gardens of properties to the south of Grove Road East. Indeed two outbuildings are present adjacent to the location of the main area of outside space which would be associated with the dwelling proposed within the gardens of No 6 Grove Road East and No 68 Fairmile Road.
13. It is evident that various dwellings nearby have been erected within the formerly more expansive plots of older properties, such as No 13A Grove Road East.<sup>5</sup> Whilst such infill development in the immediate vicinity of No 4 tends to reflect the prevailing pattern of the built environment, i.e. properties fronting carriageways, the Council does not dispute that numerous proposals within the wider area for dwellings located directly behind those facing carriageways have previously been approved.<sup>6</sup>
14. A dwelling was also granted permission by the Council within land to the rear of No 16 Grove Road East.<sup>7</sup> I accept that the circumstances in that case, notably the presence of existing buildings, are different from those in this appeal. Nevertheless it appears to me that the space between the side elevations of Nos 16 and 18 Grove Road East, via which the dwelling to the rear of No 16 would be accessed, is comparable to that of the space between the side elevations of Nos 4 and 6. As such it does not appear to me that the proposal to which this appeal relates would be more visible in the street scene than that proposal.
15. Moreover the dwelling proposed in this instance would be set broadly in line with that of No 4, leaving some space open between it and the boundary with No 6. In my view this means that the dwelling proposed would be largely obscured from view by the form of No 6 from most vantage points along Grove Road East. The appellant has set out, and the Council does not dispute, that the nearest elevation of the proposed dwelling to Grove Road East would be approximately 35 metres distant.
16. Consequently where the dwelling proposed via this appeal is fleetingly visible, by virtue of its modest overall height and scale, distance from Grove Road East, and the presence of various outbuildings within rear gardens, it would not appear incongruous (notwithstanding that the prevailing scale of dwellings in the area is two storey). Nor indeed in my view would the dwelling thus located appear out-of-keeping with the prevailing pattern of development in the area, particularly given the closer inter-relationship of many dwellings within the area

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<sup>5</sup> Relating to planning permission Ref APP/8/13/0391.

<sup>6</sup> Including via planning permissions Ref APP/8/14/0392, APP/8/07/0357, APP/8/13/0413, APP/8/02/0546, APP/8/03/0662, APP/8/98/0343/F, APP/8/880335/F, and APP/8/00/0285.

<sup>7</sup> Relating to planning permission Ref APP/8/14/0064.

as identified above.<sup>8</sup> These features of the proposal notably distinguish it from that which was proposed via the 2010 appeals, where the schemes there would have spanned a greater proportion of the width of the garden and would have been two storey in height.

17. For the above reasons I therefore conclude that no demonstrable harm would arise from the proposal in respect of the character and appearance of the area. Therefore no substantive conflict arises with the relevant provisions of policies HE2 of the Core Strategy, saved policy HE12 of the Local Plan or with relevant elements of the Framework or the Guidance.

#### Living conditions

18. It is axiomatic that there will be some effect of the proposal in respect of the living conditions of the occupants of neighbouring properties given that the proposal would result in an additional intensity of use.
19. However, as established above, the surrounding area is already a relatively dense mixed environment where a certain baseline level of activity and noise can be expected. Given the lengthy plot of No 4, the nearest element of the dwelling proposed would fall approximately 22 metres distant from the rear elevation of No 4 and a minimum of approximately 25 metres distant from other dwellings along Grove Road East and Fairmile Road.<sup>9</sup> These separation distances significantly exceed the separation distance between many other properties in the area.
20. Various properties within the area benefit from vehicular access to the rear thereof, and indeed a not insignificant number of dwellings set directly behind dwellings fronting carriageways have been granted permission in the area as identified above. Neither the side elevations of Nos 4 nor 6 facing the access contain windows, and the main area of outside space proposed would be located furthest away from these properties within the plot proposed. The former mitigates the extent to which comings and goings would compromise the living conditions of the occupants of these properties, and the latter the disturbance that would result from the use of the outside space proposed.
21. Given the modest scale of the dwelling proposed, as boundary screening could be secured by condition, and on account of the enclosure within the rear of the appeal site already resulting from the presence of outbuildings within the rear gardens of No 6 Grove Road East and No 68 Fairmile Road I cannot reasonably conclude that the proposal would lead to an adverse sense of enclosure, significant loss of privacy or natural light, or indeed that residential activity in this location would be liable to give rise to unacceptable levels of disturbance.<sup>10</sup>
22. I accept that permission was previously refused via the 2010 appeals for development within the appeal site. However in that decision the inspector concluded that harm would arise in respect of character and appearance and

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<sup>8</sup> A finding which is consistent with, although arrived independently of, that in appeal Ref APP/E1210/W/14/3000591 which has been brought to my attention by the appellant.

<sup>9</sup> As set out in Section 6.11 of the appellant's appeal statement, calculations which are not disputed.

<sup>10</sup> A finding consistent with that of the inspector in relation to appeal Ref APP/E1210/W/14/3000591, which I would note granted permission for the erection of two dwellings served by one access between Nos 16 and 18 Grove Road west and would consequently result in a greater intensity of use compared to the proposal before me.

loss of outlook on account of the scale of the dwelling or dwellings proposed, which would not arise in this instance for the reasons given above. Moreover that decision was taken against a different policy backdrop, notably the removal of the presumption in favour of development on existing garden land via an amendment to Planning Policy Statement 3, which has now been superseded by the Framework.

23. I therefore conclude that although the proposal would result in some effect in respect of the living conditions of the occupants of nearby properties with particular reference to noise and disturbance, this would not be unacceptable taking account of the particular context in which development is proposed. I cannot therefore conclude that the proposal conflicts with the relevant provisions of policy HE2 of the Core Strategy, saved policy HE12 of the Local Plan or with relevant elements of the Framework or the Guidance.

### **Other Matters**

24. The Council cited within their decision notice that at the time the application was made it was not supported by a suitable financial contribution to mitigate the effects of the development proposed on nearby sites protected via European environmental legislation. The appellant has subsequently submitted a signed copy of a unilateral undertaking dated 28 January 2017 which makes provision for associated non-infrastructure measures in this respect by way of planning obligation (the 'undertaking').
25. The Council have confirmed at appeal that in their view the undertaking brings the proposal into compliance with the relevant requirements of the development plan, the approach in the Dorset Heathlands Planning Framework Supplementary Planning Document adopted by the Council on 3 January 2017, and that it is otherwise fit-for-purpose. Having considered the undertaking and the relevant policy and legislative context,<sup>11</sup> there is nothing within the information before me to lead me to a different assessment in this respect.
26. I accept that the proposal would result in the loss of some currently undeveloped land, however this land is presently and would remain in residential use and there is nothing in the information before me to indicate that buildings or structures could not be erected in this location irrespective of the outcome of this appeal.
27. Whilst certain nearby residents have expressed concern that the proposal may lead to further pressure for on-street parking, the proposal makes provision for off-road parking spaces associated with the dwelling proposed which appears commensurate with the needs of prospective occupants. Consequently neither this, nor any other matter, is sufficient to outweigh my findings in respect of the main issues in this case.

### **Conclusion**

28. For the above reasons, and taking all other matters into account, the proposal complies with the development plan taken as a whole and with the approach in

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<sup>11</sup> Including paragraph 204 of the Framework and the relevant provisions of the Community Infrastructure Levy Regulations 2010 as amended.

the Framework and the Guidance. As such it is unnecessary to address the matter of whether or not the Council are presently able to demonstrate a five year land supply as referred to above and the influence thereof on this appeal. I therefore conclude that the appeal should be allowed subject to the undertaking and to the conditions set out below.

### **Conditions**

29. For the avoidance of doubt and in the interests of proper planning I have imposed a condition requiring compliance with the relevant plans. To ensure that the proposal integrates appropriately with its surroundings it is also necessary to impose conditions requiring that agreed external materials are used and a landscaping scheme implemented, which need necessarily only apply to relevant building operations.
30. In imposing conditions I have had regard to the tests within the Framework, the Planning Practice Guidance and relevant statute,<sup>12</sup> and have accordingly amended the wording of certain conditions proposed by the Council without altering their aim.

*Thomas Bristow*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2270/01 and 2270/02.
- 3) No works other than demolition, site preparation and groundworks related to the development hereby permitted shall take place until samples of the external materials to be used have been agreed in writing with the local planning authority. Development shall be carried out in accordance with the samples thus agreed.
- 4) No works other than demolition, site preparation and groundworks related to the development hereby permitted shall take place until a landscaping scheme has been agreed in writing with the local planning authority (which shall relate to both hard and soft landscaping, with details of hard landscaping including surfacing materials and colours, kerbing, bollards, railings, walls, fences and any other means of enclosure, and with details of soft landscaping including planting, the retention and protection of existing trees, and any changes in ground levels).

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<sup>12</sup> Including paragraph 206 of the Framework, Guidance Reference ID: 21a-004-20140306 and Article 35(1)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Hard landscaping shall be implemented in accordance with the details thus approved before the first occupation of the dwelling hereby permitted and retained as such thereafter.

Soft landscaping shall be implemented in accordance with the details thus approved within the first planting season, October to March inclusive, following the first occupation of the dwelling hereby permitted in accordance with relevant British Standards. The soft landscaping scheme thus implemented shall thereafter be maintained for a period of 5 years, and any plants (including those retained as part of the scheme) which die or become damaged or diseased within this period shall be replaced in the next planting season with others of a similar size and of the same species, and soft landscaping shall be retained as such thereafter.