
Appeal Decision

Site visit made on 28 February 2017

by R J Marshall LLB DipTP MRTPI

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

Decision date: 27 March 2017

Appeal Ref: APP/E1210/W/16/3161919

land forming part of 14, Lodge Road, Christchurch, BH23 2ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Dennis Thompson against Christchurch Borough Council.
 - The application Ref 8/16/0727/FUL, is dated 1 August 2016.
 - The development proposed is sever land adjacent to 14 Lodge Road and erect new dwelling.
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Decision

1. The appeal is dismissed.

Background

2. This appeal is into the failure of the Council to determine the application within the prescribed period. The Council has resolved that had it been in time to issue a decision permission would have been refused on the grounds that the proposed development would be out of keeping with the character of the area and give rise to a cramped and contrived arrangement of built form to the detriment of residential amenities. It also indicated that the absence of a legal agreement in respect of the Community Infrastructure Levy (CIL) and Heathland contributions would have been a reason for refusal.

Main Issues

3. In light of the above the main issues in this appeal are: **first**, the effect of the proposed development on the character and appearance of the surrounding area; **second**, its effect on the living conditions of adjoining residents; **third**, its effect on matters of nature conservation importance; and **fourth**, whether the absence of a legal agreement on CIL payments should stand against the proposal.

Reasons

Character and appearance

4. The appeal site is in an established residential area containing dwellings of a wide variety of age and styles. It is proposed to attach an additional dwelling on to the side of an existing semi-detached property. The effect would be to create a small terrace. I see no objection per-se to the creation of a terrace given the wide variety of dwelling types in the area which includes a terrace

almost opposite the site. Nor would infilling the gap between Nos. 14 and 16 Lodge Road, given the size of gaps between many properties in the road, lead to the loss of a gap of importance in the street scene.

5. However, the existing pair of semi-detached dwellings, Nos 12 and 14 Lodge Road, are attractive Victorian style bay windowed properties. Although one of them retains its redbrick finish whilst the other has been rendered they nevertheless retain a pleasingly symmetrical appearance. The proposed development would detract from this especially given its lengthier ridge line and absence of a ground-floor bay window. By detracting from the appearance of the pair of semi-detached dwellings the proposed development would also detract from the character and appearance of the wider area. Adding to this harm would be the subdivision of the plot at No. 14 which would give rise to 2 rear gardens with a cramped and rather contrived layout at odds generally with development in the vicinity.
6. It is concluded that the proposed development would detract from the character and appearance of the surrounding area.

Living conditions

7. The Council's concern on this issue relates to the impact of the proposed development on the living conditions of those in the adjoining house to the east, No. 16 Lodge Road. The side elevation of this house facing towards the appeal site has a number of windows in it at first and ground floor level. With the proposed development in place they would face towards its side elevation. To some extent there would thus be a diminution of outlook from this neighbouring property. However, given the reasonably sized gap between the 2 properties, this would not be to a degree that is uncommon in residential areas such as this. Nor has any evidence been provided that there would be an unacceptable loss of daylight and sunlight and nothing that I saw suggested to the contrary.
8. It is concluded that the proposed development would not detract from unacceptably from the living conditions of adjoining residents.

Matters of nature conservation importance

9. The Council has referred to its Dorset Heathlands Planning Framework 2015 – 2020 Supplementary Planning Document (SPD). It says that to fund measures set out in the framework financial contributions of £241 per house are required. Such measures are often sought to ensure that avoidance/mitigation measures are provided so that residential developments within a certain distance of Special Protection Areas cause no significant adverse effects on their integrity. However, the Council has provided no copy of the SPD and nor has it indicated, by way for example of the distance of the appeal site from any such protected area, that the financial contribution sought would be applicable in this case.
10. It is concluded that the Council has not shown that in the absence of the financial contribution sought interests of nature conservation would be harmed.

CIL payment

11. The Council says that in the absence of a legal agreement in respect of the CIL that permission should be refused. However, the way in which the CIL is operated is that when planning permission is granted in relation to chargeable

development the charging authority will serve a notice setting out the amount of CIL payable by the developer. This takes place after planning permission has been granted and there is no need for any Section 106 agreement or obligation. Thus the absence of a legal agreement in relation to CIL should not stand against the proposal.

Other matters

12. A key local third party concern is on the adequacy of the proposed parking provision. However, whilst I note observations on current levels of parking at No. 14, there is no evidence of a failure to accord with Council standards and all that I have seen indicates that there would be a level of parking provision commonly found in areas such as this. Acceptable parking provision would, therefore, be made.

Final balancing

13. I have found harm only in relation to the first issue. However, it is this that I find decisive.
14. In its statement the Council has listed a series of development plan Policies. However, no copies of them have been provided and nor has the Council referred to the relevance of these Policies to its case. I have been unable, therefore, to carry out an assessment of the proposal against the development plan. However, the National Planning Policy Framework (the Framework) seeks to protect the built environment and given my conclusion on the first issue the proposed development would fail in this regard. I have no doubt that the additional house proposed would perform some economic and social role, albeit limited given the size of the development. However, it would fail to meet the environmental role for the reasons given above and this would be to a degree which would mean that, seen in the round, this would not be sustainable development in the terms of the Framework.

Conclusion

15. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR