
Appeal Decision

Site visit made on 21 March 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 6 April 2017

Appeal Ref: APP/Q1255/W/3164445
53 Queens Road, Poole BH14 9HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs B Cheer against the Borough of Poole Council.
 - The application Ref APP/16/01404/F is dated 9 September 2016.
 - The application sought planning permission for "demolish existing garage, sever land and erect detached house" without complying with a condition attached to planning permission Ref APP/14/01079/F, dated 11 November 2014.
 - The condition in dispute is No 2 which states that: "The development hereby permitted shall be carried out in accordance with the following approved plans: Plans & Elevations (Drawing number 1127-002 received 16 September 2014); Site, Block & Location Plan (Drawing number 1127-001 Revision B received 4 November 2014).
 - The reason given for the condition is: "For the avoidance of doubt and in the interests of proper planning".
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Decision

1. The appeal is allowed and planning permission is granted for "demolish existing garage, sever land and erect detached house" at 53 Queens Road, Poole BH14 9HG, in accordance with the application Ref APP/16/01404/F dated 9 September 2016, without complying with condition No 2 set out in planning permission Ref APP/14/01079/F granted on 11 November 2014 by the Borough of Poole Council, but otherwise subject to the conditions set out in the Schedule attached to this Decision.

Application for costs

2. An application for costs was made by Mr and Mrs B Cheer against the Borough of Poole Council. This application is the subject of a separate Decision.

Preliminary matters

3. The appeal site is described as No 53 Queens Road, which was the address given in the original application. I saw from my site visit that the appeal property has subsequently been numbered No 55, however, for consistency I have referred to the site as No 53.

Background and Main Issue

4. Planning permission was granted for the erection of a detached dwelling at the appeal site, which has been built. However, the front elevation of the
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development differs from the approved plans in that it has French doors to the bay window and a front balcony supported by brick piers, with brick planters below. The planning permission was subject to a condition requiring the development to be constructed in accordance with the approved plans. The appellant is seeking to remove the condition and retain the balcony and French doors.

5. The main issue is the effect that removing the condition would have on: (i) the character and appearance of the area and the host dwelling and; (ii) the living conditions of neighbouring occupiers with regard to privacy, and noise and disturbance.

Reasons

Character and Appearance

6. The appeal property is a two storey detached house. It has been built relatively recently on land which was originally part of the garden of No 53 and was formerly occupied by a garage. Due to the land levels, the ground floor of the house is higher than street level. The surrounding area is characterised by detached and semi-detached houses of varying size and design.
7. During my site visit I looked at the house from several different aspects and I also considered the character of the wider area. The architectural style and the design of houses in the area varies considerably. There is no predominant house type or consistent design feature that provides a theme or style against which the development can be assessed.
8. The parking for the house is at street level and consequently the front elevation is built up to overcome the difference in levels. The approved scheme shows this as a brick wall which would have been a bland and alien feature in the street scene. In contrast, the development breaks up the otherwise bland frontage with planting and brick piers supporting a balcony. I appreciate that there are no other similar front balconies in the area, but I do not consider that the development is incongruous given the variety of development in the vicinity. The proportions and materials are in keeping with the host dwelling and the balcony is not overly dominant. The French doors extend the area of glazing to the front elevation but their overall effect is limited. Whilst I agree that the balcony is prominent, it is not harmful to the street scene.
9. Consequently, I conclude on this issue that the development does not have a harmful effect on the character and appearance of the area or the host dwelling. It therefore meets the aims of Policy PCS23 of the Core Strategy,¹ which seeks to secure development of a high standard of design that respects the setting and character of the site and the surrounding area.

Living Conditions

10. I saw from my site visit that it would be possible to sit or stand on the balcony, although it would be very exposed due to the front location and the prominence of the balcony. The balcony is relatively modest in size and, consequently, it is unlikely to accommodate more than one or two small pieces of outdoor furniture. On this basis, I do not consider it likely that the balcony would be used on a regular basis for entertaining or as an outdoor seating area

¹ Poole Core Strategy, adopted February 2009

for the occupants. Therefore, any noise and disturbance would be unlikely to have a material adverse effect on the living conditions of neighbouring occupiers.

11. It is possible to see into the garden of No 19 Ponsonby Road when standing towards the eastern edge of the balcony. However, as explained above, it is unlikely that occupiers of the appeal property would be standing and looking in this direction on a regular basis. It is more likely that the balcony would be used occasionally and the loss of privacy resulting from views into the front garden of the neighbouring property would not be material. Moreover, I saw from the site visit that the neighbouring garden is not completely private at present. There are also oblique views towards the ground floor windows of No 19, but for the reasons given above, any overlooking into the living accommodation is unlikely to be material.
12. Similarly, there are oblique views from the western edge of the balcony towards the bay window and side window of No 53 Queens Road, the original house. I do not consider that this has led to a material loss of privacy due to the relative positions of the windows in relation to the balcony and its likely usage.
13. I have considered the concerns of interested people living opposite the development, regarding overlooking from the balcony. However, any overlooking is unlikely to be materially greater than existing views from the front windows of Nos 53 and 55.
14. Other matters have been raised by interested people, such as inconvenience during construction and the fact that the development has gone ahead without the necessary permission. However, I am required to only consider the disputed condition. I do not have powers to re-assess the whole development.
15. Consequently, I conclude on this issue that the development does not have an adverse effect on the living conditions of neighbouring occupiers with regard to privacy, and noise and disturbance. Therefore, it accords with Policy DM1 of the Development Plan Document² which seeks to ensure that development does not have an adverse effect on neighbouring properties.

Conditions

16. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have imposed all those that the Council has advised remain relevant.
17. The Council has suggested an additional condition requiring the erection of an obscure glazed screen of at least 1.8m in height to be erected along both sides of the balcony. This is to limit the adverse effects of overlooking. However, as explained above, I do not find that the balcony results in a material loss of privacy to the neighbouring occupiers. Consequently, I do not consider that there is a need for this condition. Also, the screens would be prominent in the street scene, which would be undesirable.

² Poole Site Specific Allocations and Development Management Policies: Development Plan Document, adopted April 2012

Conclusion

18. For the reasons given above, the appeal is allowed.

Debbie Moore

Inspector

Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Plans and Elevations (Drawing No 1127-002 Revision A, dated 25 May 2016) and Site, Block and Location Plan (Drawing No 1127-001 Revision D, dated 25 May 2016).
- 2) Both in the first instance and upon all subsequent occasions, the first floor landing and bathroom windows shown on the approved plan: Plans and Elevations 1127-002 Revision A, dated 25 May 2016, shall be glazed with obscure glass in a form sufficient to prevent external views and shall either be fixed lights or hung in such a way as to prevent the effect of obscure glazing being negated by reason of opening.
- 3) The development shall not be brought into use until the vehicle parking shown on the approved Site, Block and Location Plan (1127-001 Revision D, dated 25 May 2016) has been constructed, and shall thereafter be retained and kept available for those purposes at all times.
- 4) Before the development hereby permitted is brought into use and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any subsequent re-enactment thereof, the land designated as visibility splays on the approved site plan shall be cleared of all obstructions over 0.6 metres above the level of the adjoining highway, including the reduction in level of the land if necessary, and nothing over that height shall be permitted to remain, be placed, built, planted or grown on the land so designated at any time.
- 5) Any ground hard surfaces 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 site. The hard surface shall thereafter be retained as such unless planning permission is otherwise approved.