
Appeal Decision

Site visit made on 6 April 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 11 May 2017

Appeal Ref: APP/G1250/W/16/3164813

103 Horsham Avenue, Bournemouth BH10 7JF

- 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 Vivera Ltd against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-12062-B, dated 19 September 2016, was refused by notice dated 24 November 2016.
 - The development proposed is sever land and erect 1 No. 3 bed bungalow and garage for existing.
-

Decision

1. The appeal is allowed and planning permission is granted for sever land and erect 1 No. 3 bed bungalow and garage for existing at 103 Horsham Avenue, Bournemouth BH10 7JF in accordance with the terms of the application, Ref 7-2016-12062-B, dated 19 September 2016, subject to the conditions in the attached Annex.

Procedural Matter

2. The Council, in its decision notice, refers to its Residential Development: A Design Guide (the Design Guide). Reference is also made in the submissions to the Dorset Heathlands Supplementary Planning Document (the SPD). I have applied some weight to those documents due to their role in supporting the relevant development plan policies.

Main Issues

3. The main issues are the effect of the proposed development on:
 - i) the character and appearance of the surrounding area;
 - ii) the living conditions of the residents of neighbouring mobile homes in Selwood Park in respect of outlook.

Reasons

Character and appearance

4. The site is located at the end of a cul-de-sac where there is open countryside beyond. It differs from most others nearby in that it is a relatively large plot with a wide rear garden. The proposed dwelling would therefore be offset from that relating to No 103 and with a fairly good degree of separation between the two. It would also be set well back from the street and so would not be a
-

- prominent feature of the streetscene. There are also no clear public vantage points of the site from the countryside to the north.
5. Both dwellings would have fairly small private garden areas, and that proposed would be positioned very close to the rear site boundary. However, any sight of the dwelling from Horsham Avenue and the mobile home park to the rear would be to some extent in the context of its close proximity to, and the higher density of, the latter which can be glimpsed from Horsham Avenue in between existing dwellings.
 6. The area of garden immediately adjacent to the proposed living room would be particularly small. However, it would still be useable space and would be likely to have a fairly open aspect to the countryside to the north. Outlook from bedroom 3 would also be unlikely to be restricted by any boundary fence in close proximity to such an extent as to have an overbearing effect. The small irregular corner of the resultant garden of No 103 nearest to the proposed dwelling, required to allow access to the rear garden of the latter would also be fairly imperceptible in the context of the site layout as a whole.
 7. In terms of its scale and design, it would be of a more modest height than that of No 103 and of a similar footprint. The gable ends, asymmetrical front gable feature, and fairly wide front elevation would differ in appearance to that existing dwelling and others in the vicinity, but would not jar in the context of the variety of those existing building designs. Again, its relatively low height and degree of set back from the road would, in any case, avoid it standing out as a dominant feature. It would also be largely screened by existing dwellings other than from directly in front of the site.
 8. The proposed garage would add further built form to the site. However, it would be a modest sized building that would not appear as an unusual feature to the side of No 103. It would also be separated from the proposed dwelling by two car parking spaces and end on to it so as not to dominate the frontage.
 9. The proposal would involve the formation of a significant area of hard surfaced driveway and parking areas and a relatively wide vehicle access. This would necessitate the removal of some of No 103's existing lawned areas and existing fairly thick vegetation along part of the northern site boundary. However, due to the relatively wide frontage to No 103, a fairly significant amount of front lawn would be retained along with a short, narrower planting strip. There would also remain the significant vegetation close to the site boundary within the countryside to the north. Although other existing vegetation would be removed at the rear of the site, the more visible frontage area would therefore retain an acceptable degree of softening.
 10. The parking spaces for the proposed dwelling, particularly that nearest to it, would be fairly cramped in terms of enabling comfortable manoeuvrability of cars in and out, and there would be little or no scope to widen the spaces. Although not ideal in terms of layout, the proposal would nevertheless provide two off-street parking spaces, and that element of the scheme would again be set well back from the road and largely screened by the proposed detached garage.
 11. For the above reasons, I conclude on this issue that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area. As such, in respect of this issue, it would accord with

policies CS22 and CS41 of the Bournemouth Local Plan: Core Strategy (the Core Strategy), policy 6.8 of the Bournemouth District Wide Local Plan (the Local Plan), and would not be at odds with the principles of the Design Guide, which together, amongst other things, require new development to preserve or enhance the character of the area. It would also accord with the National Planning Policy Framework (the Framework) which, in paragraph 17, states that planning should, amongst other things, take account of the character of different areas.

Living conditions of residents of Selwood Park in respect of outlook

12. The proposed dwelling would be adjacent and close to the boundary with two mobile homes in Selwood Park, Nos 19 and 19a. However, those mobile homes have no windows on the elevations facing the site and so any direct outlook from within them would be largely unimpeded. They have garden areas immediately adjacent to the site. However, the main garden area of No 19a is to the north of that property which would maintain an open aspect to the countryside.
13. In any case, the single storey eaves height and proposed slope of the roof away from the rear boundary would ensure that the proposal would be unlikely to have an unacceptably enclosing or overbearing effect from the gardens of Nos 19a and 19. In the case of No 19, the proposed dwelling would also only project adjacent to a relatively short section of the boundary with that property. This is also in the context of there currently being a reduced level of outlook due to the presence of an existing high hedge along that rear site boundary which would be removed.
14. I have had regard to the factor of the site currently sloping downwards to the north, close to the rear boundary. However, I also saw that the rear garden of No 19a largely maintains its level such that there would not be any significant additional height impact from the proposal.
15. No 18a Selwood Park has a rear facing window but the proposed dwelling would only be obliquely visible from there, with only the end part of the proposed garden adjacent to that property's boundary.
16. For the above reasons, I conclude on this issue that the proposed development would not cause unacceptable harm to the living conditions of the residents of neighbouring mobile homes in Selwood Park in respect of outlook. As such, in respect of this issue, it would accord with policies CS22 and CS41 of the Core Strategy, policy 6.8 of the Local Plan, and would not be at odds with the principles of the Design Guide, which together require development not to harm living conditions. It would also accord with the Framework which, in paragraph 17, states that planning should, amongst other things, always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

17. I have had regard to the privacy of the occupiers of No 101 Horsham Avenue. There would be habitable room windows directly facing the end of No 101's rear garden. However, those would only be ground floor windows. Together with the degree of separation from the boundary and any boundary screening, any significant overlooking of that part of the garden would be likely to be

prevented. The same would apply in terms of the rest of No 101's garden and the house itself, especially due to the oblique angle of viewing from those end windows and the greater degree of separation. The same would also apply in respect of the proposed front facing kitchen window from where there would again only be oblique angle lines of sight to No 101. There would therefore be unlikely to be any overlooking of No 101 that would amount to a material loss of privacy to its occupiers.

18. I have also had regard to the living conditions of those neighbouring residents of the mobile home park in respect of sunlight. The proposal would be likely to cut out some degree of sunlight to those neighbouring properties. However, the factors of there being no windows on the eastern end facing elevations of Nos 19 and 19a, the aspect, and the proposed sloping roof away from the boundary, would be likely to prevent that being to such an extent as to cause unacceptable harm to living conditions.
19. A Unilateral Planning Obligation (UPO) has been submitted by the appellant during the appeal process in relation to securing a financial contribution towards measures to mitigate any potential adverse effect of the proposal on the integrity of the Dorset Heathlands Special Protection Area, Ramsar Site and Dorset Heaths Special Area of Conservation. This relates to strategic access management and monitoring (SAMM) measures in accordance with the SPD. The Council confirms that the UPO would address the second reason for refusal relating to the absence of such an obligation.
20. There is a need to protect the ecological integrity of the above heathlands from potential pressure caused by the recreational activity of residents of the proposed new dwelling. This is given that the site lies within the range of 400 metres to 5 kilometres from those protected heathlands. Policies CS32, CS33 and CS34 of the Core Strategy, along with the SPD, together set out the requirements to ensure such protection.
21. The Framework confirms in paragraph 119, that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. In this case the proposed SAMM contribution would provide mitigation to make it unlikely that the proposed development would have a significant effect on the protected heathlands. As such, no further consideration of appropriate assessment under the Habitats Regulations is required and the preclusion on applying the presumption in favour of sustainable development under paragraph 119 does not come into effect.
22. For the above reasons I am satisfied that the UPO would meet the tests set out in paragraph 204 of the Framework.
23. With regard to neighbours' concerns about parking and turning in the street, the proposed development would provide two off-street spaces each for the existing and proposed dwellings at No 103. This would be likely to minimise the need for on-street parking so as not to materially affect any current demand for, or availability of, such spaces.
24. Reference is made by a neighbouring resident to the presumed need for a retaining wall on the northern boundary of the site. The proposed development

would involve a levelling of the site and further details of this, together with any boundary treatment can be secured by condition.

Conditions

25. The Council has suggested twelve conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance and amended some of the wording and omitted one. I have also added the standard time condition which is required in this case.
26. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be required.
27. In the interests of the character and appearance of the surrounding area conditions would be necessary to secure: samples of the materials proposed to be used on the external surfaces of the proposed development; details of hard and soft landscaping and a landscape maintenance plan; and details of finished levels above ordnance datum of the proposed buildings and site.
28. In the interests of the living conditions of neighbouring residents, in particular in respect of noise and disturbance, a condition to limit the hours of demolition and construction works would be necessary. Furthermore, due to the close proximity of the proposed dwelling to Selwood Park properties and in the interests of maintaining an acceptable level of outlook from them, and due to the restricted space around the parking and turning area for the proposed dwelling, the removal of permitted development rights for any enlargement of the dwelling would be necessary. Additionally, in the interests of the privacy of neighbouring residents, and in the event that first floor accommodation were introduced in the future, a condition to remove permitted development rights for windows in the roof or dormer windows would be necessary.
29. In the interests of highway safety, a condition to secure specification details of the proposed vehicular access and parking and turning areas, ensuring that those areas are completed in accordance with the approved plans and details and then retained for those purposes would be necessary.
30. In the interests of ensuring satisfactory surface water drainage for the site, a condition to secure a scheme for the disposal of such water, having first carried out an assessment of the potential for using a sustainable drainage system, would be necessary. The Council's suggested separate condition No 8, that relates to the drainage of hard surface areas, would be unnecessary as the requirements could be covered under a single drainage condition.
31. In the interests of ensuring that the proposed development is carried out safely, due to the site being within 50 metres of a landfill site, it would be necessary for a condition to secure the investigation of any potential contamination of the site together with any necessary remediation measures.

Conclusion

32. For the reasons given above I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

Annex – 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: 8793/100 Revision C, 8793/101 Revision B, 8793/102 Revision C, 8793/104.
- 3) No development shall take place until details/samples of all external surface materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Demolition or construction works shall take place only between 8am and 6pm on Monday to Friday, 8am and 1pm on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: planting plans; schedule of plants; all new hard surfacing materials; boundary treatments; any external lighting; and an implementation programme. The landscaping works shall be carried out in accordance with the approved details.
- 6) Before the development is first occupied a schedule of landscape maintenance for a period of five years shall be submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.
- 7) 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 enlargements of the dwelling hereby permitted shall be constructed.
- 8) 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 windows shall be installed in the roof, other than those expressly authorised by this permission, or dormer windows constructed.
- 9) No development shall commence until details of the specification (including a typical cross section of the surfacing) of the proposed access and areas for parking and turning shown on the approved plans have been submitted to and approved in writing by the local planning authority. The dwelling hereby permitted shall not be occupied until the proposed vehicular access and car parking and turning areas have been laid out and constructed in accordance with the approved details and plans. Those areas shall thereafter be retained as such and kept available at all times for those purposes.
- 10) No development shall take place, unless an alternative timetable is agreed in writing by the local planning authority (LPA), until details of surface water drainage works have been submitted to and approved in writing by the LPA. Before any details are submitted to the LPA an assessment shall be carried out of the potential for disposing of surface

water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. The submitted details shall include the following as appropriate:

- i) A scaled plan indicating the extent, position and type of all proposed hard surfacing (including drives, parking areas, paths and patios) and roofed areas;
- ii) Details of the method of disposal for all areas including means of treatment or interception for potentially polluted run-off;
- iii) Scaled drawings including cross sections, and any other details or material samples as may be required, to illustrate the construction method and materials to be used for the hard surfacing.

The drainage works shall be completed in accordance with the approved details prior to occupation of the dwelling hereby permitted or in accordance with a timetable to be agreed in writing by the LPA.

- 11) No development shall take place until full details of the finished levels above ordnance datum of the ground floor of the proposed buildings and of the site, in relation to existing ground levels, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 12) No development shall take place until the following have been submitted to and approved in writing by the Local Planning Authority (LPA):
 - i. a 'desk study' report documenting the site history;
 - ii. a site investigation report documenting the ground conditions of the site, and incorporating a 'conceptual model' of all potential pollutant linkages, detailing the identified sources, pathways and receptors and basis of risk assessment;
 - iii. a detailed scheme for remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed (if appropriate);
 - iv. a detailed phasing scheme for the development and remedial works (if appropriate).

The approved remediation scheme shall be fully implemented before the development hereby permitted is first occupied. Any variation of the scheme shall be agreed in writing by the LPA in advance of works being undertaken. On completion of the works, written confirmation shall be provided to the LPA that all works were completed in accordance with the approved details.