
Appeal Decision

Site visit made on 15 June 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 12 July 2017

Appeal Ref: APP/G1250/W/17/3169245

Rear of 1 Hendford Road, Bournemouth BH10 5AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Miss Christine White against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-977-I, dated 5 August 2016, was refused by notice dated 16 December 2016.
 - The development proposed is new access drive and erection of 5 dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline, with the matters of access, layout and scale for consideration. The matters of appearance and landscaping are reserved for future consideration. I have determined the appeal on that basis.
3. The Council, in its decision notice, refers to its Residential Development: A Design Guide (the Design Guide). I have applied some weight to that document due to its role in supporting the relevant development plan policies.

Main Issues

4. The main issues are:
 - i) the effect of the proposed development on the living conditions of neighbouring residents in respect of noise and disturbance and outlook;
 - ii) whether the proposed development would provide acceptable living conditions for future occupiers, with regard to outlook;
 - iii) the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Living conditions of neighbouring residents

5. The existing use of the site as a builders yard would inevitably generate some noise and disturbance from vehicle movements and loading and unloading of the various materials and items stored at the site. However, I have not received any substantive evidence to demonstrate that it is to an extent as to be materially harmful to surrounding residents.

6. Furthermore, in relation to those particularly close-by dwellings of Orchard Close immediately to the south, which only have short rear gardens, the existing building on the site is located alongside most of the rear boundary of those properties. It is likely that that building therefore acts as a buffer to any immediate noise and disturbance from vehicles and any associated loading or unloading activity within the site's open areas. That is likely to create, generally, a pleasantly fairly quiet environment for the residents of those dwellings, also due to being well away from traffic flows in surrounding streets.
7. The proposed development would introduce an access drive serving the new dwellings immediately adjacent to the rear boundary of the adjacent Orchard Close dwellings. The level of activity in terms of vehicle movements would therefore be likely to materially intensify on that part of the site nearest to the rear of those properties. Engine noise from cars associated with all five dwellings, either in accessing parking spaces or using the turning area, would therefore be experienced in close proximity to the rear of those adjacent dwellings in particular.
8. In that context, with only the presence of an intervening boundary screen fence, it is likely that the car engine noise would be noticeably intrusive to those residents of Orchard Close. That would be likely to be accentuated if generated during quieter periods such as late evening through to early morning, also including activity such as the slamming of car doors. The appellant suggests that acoustic boundary treatment could be erected. However, I have received no evidence as to the design or degree of effectiveness of any such treatment to enable sufficient certainty that this would provide appropriate mitigation in this case. In light of that uncertainty, it would be inappropriate to secure such fencing by condition. I also have no substantive basis for considering that the conservatories to the rear of the Orchard Close dwellings would sufficiently mitigate against any unacceptable noise levels, whether in respect of ground or first floor habitable room space.
9. The proposal would also introduce two parking spaces immediately adjacent to the side boundary of the rear garden of No 1 Hendford Road, in close proximity to the rear habitable rooms of that dwelling, which face away from the street frontage activity. The manoeuvring of cars in and out of those spaces would therefore be likely to generate a noticeable and significant increase in noise and disturbance compared with the existing situation due to the revving of engines and car doors slamming. This again would be likely to be accentuated during those same quieter periods as previously referred to.
10. I have also had regard to any potential noise and disturbance associated with the proposed location of the refuse bin collection point adjacent to the entrance to the site, close to the front of No 3. However, it is likely that any such activity would be restricted to when the bins are placed there each week prior to collection and when collection takes place. I have no substantive basis to consider that those bins would be left there permanently especially due to the degree of separation from the associated dwellings and the greater convenience of having bins close at hand for everyday use. However, this does not deflect from the harm that I have otherwise found would be caused in respect of noise and disturbance.
11. The proposal would not achieve the separation distance of 21 metres, as set out in the Design Guide, between the proposed dwellings and those existing to

the north and south. However, the proposed rooflight windows would prevent any unacceptable levels of overlooking from first floor rooms. Importantly, the proposed dwellings would be of a fairly modest height and set away from the north and south boundaries. They would therefore be unlikely to have an overbearing effect in relation to those adjacent properties. Furthermore, in respect of the Orchard Close properties, the dwellings would be set further away than the existing store building and so would likely result in a lesser sense of enclosure than is currently the case. Nevertheless, again this does not deflect from or outweigh the harm that I have otherwise found would be caused in respect of noise and disturbance.

12. For the above reasons, I conclude on this issue that the proposed development would cause unacceptable harm to the living conditions of the neighbouring occupiers of Orchard Close and No 1 Hendford Road in respect of noise and disturbance. As such, in respect of this issue, it would be contrary to policies CS21 and CS41 of the Bournemouth Local Plan: Core Strategy (the Core Strategy), saved policy 6.8 of the Bournemouth District Wide Local Plan (the Local Plan) and the Design Guide in terms of their requirement, together, for residential development to respect residents' amenities. In respect of this issue, it would also be contrary to the National Planning Policy Framework (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 occupants of land and buildings.

Living conditions of future occupiers with regard to outlook

13. The proposed dwellings would have their first floor windows within the roof at a high level to prevent unacceptable levels of overlooking of neighbouring properties. Although that would not enable sight of the immediate external curtilage of the respective dwellings, there would be no reason for them to be obscure glazed and so there would be clear sight of the sky. As such, although a contrived situation and not ideal, the rooms concerned would still have a good degree of outlook, without creating a significantly oppressive internal environment.
14. Externally, although the rear garden areas would be small, the proposed buildings would be of a fairly modest height and the existing site boundary fences are not any higher than to provide privacy screening. Furthermore, where there are outbuildings in the adjacent rear gardens of neighbouring properties, these are modest in height. Prospective residents would therefore be unlikely to experience an undue sense of enclosure in using their garden areas or when looking out from ground floor rooms.
15. For the above reasons, I conclude on this issue that the proposed development would provide acceptable living conditions for future occupiers, with regard to outlook. As such, in respect of this issue, it would accord with policies CS21 and CS41 of the Core Strategy, saved policy 6.8 of the Local Plan and the Design Guide in terms of their requirement, together, for residential development to be of good design, to provide a pleasant residential environment, and to provide a high standard of amenity for future occupants. In respect of this issue, 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 future occupants of land and buildings.

Character and appearance

16. The existing use of the site includes an existing storage building in fairly poor condition, some fairly large containers and open storage of various items. It therefore has no visual merit in the context of the otherwise residential character of the site's vicinity.
17. The proposed dwellings would be of a high density, with small gardens, but not unusually so in the context of other backland development in the vicinity, including those dwellings in Orchard Close immediately to the south of the site. At that density, again like those adjacent dwellings, the design and scale would inevitably be dictated to a significant extent by the need to prevent them from having an overbearing effect on neighbouring residents and to prevent unacceptable levels of overlooking. However, in the context of those dwellings of Orchard Close, other backland dwellings nearby to the west, and the general variety of building designs in the vicinity, including a mixture of bungalows and two storey houses, the dwellings would not appear as alien or incongruous additions to the neighbourhood.
18. Furthermore, they would only be clearly seen from the street via the limited vantage point directly in front of the site's access drive. Together with the significant set back from the road, they would not be prominent or dominating features within the streetscene.
19. In respect of the visual appearance of bins located close to the entrance to the site, again as I found previously, this is likely to be restricted only to immediately prior to collection and on collection day itself. As such, the sight of the bins within the streetscene would not be unusual in the context of other bins placed on or close to the footway.
20. 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 CS21 and CS41 of the Core Strategy, saved policy 6.8 of the Local Plan and the Design Guide in terms of their requirement, together, for residential development to complement and respect the character and appearance of the area. In respect of this issue, it would also accord with the Framework which in paragraph 17 states that planning should, amongst other things, take account of the character of different areas.

Other matters

21. One of the Council's reasons for refusal relates to the failure to make an appropriate 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. The appellant agrees that such a financial contribution would be necessary, however a completed planning obligation has not been provided in order to secure this and to address that reason for refusal. As I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter in any further detail.

Conclusion

22. The Framework sets out that there should be a presumption in favour of sustainable development and indicates that to achieve that, economic, social

and environmental gains should be sought jointly and simultaneously through the planning system.

23. I have found that the proposed development would provide acceptable living conditions for future occupiers with regard to outlook and would not cause unacceptable harm to the character and appearance of the surrounding area. However, these factors do not deflect from the unacceptable harm that I have found would be caused to the living conditions of the neighbouring occupiers of Orchard Close and No 1 Hendford Road in respect of noise and disturbance.
24. The proposal would remove an existing builders yard use from a residential area. However, in visual terms that existing yard is not a dominant feature of the streetscene being set in a backland location. I have also received insufficient substantive evidence to demonstrate that it is the cause of materially or over-riding harmful levels of noise, disturbance, dust and fumes. It would provide five additional small family dwellings to the local supply, in a sustainable location in terms of access to facilities and services to serve day to day needs, although in relating to just five dwellings that would only be a small benefit. Additionally, it would be likely to improve the outlook from the rear of the Orchard Close properties due to the removal of the existing storage building which abuts the boundary. However, these factors would be insufficient to outweigh the unacceptable harm that the proposed development would cause to the living conditions of the neighbouring occupiers of Orchard Close and No 1 Hendford Road in respect of noise and disturbance. As such, it would not be a sustainable form of development.
25. Therefore, for the above reasons, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR