
Appeal Decision

Site visit made on 21 June 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 19 July 2017

Appeal Ref: APP/E1210/W/17/3166787

The White House, 428 Lymington Road, Highcliffe BH23 5HF

- 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 Mr B Turner against the decision of Christchurch Borough Council.
 - The application Ref 8/16/0569/FUL, dated 7 December 2015, was refused by notice dated 15 December 2016.
 - The development proposed is "demolish existing buildings and erect block of 10 flats".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr B Turner against Christchurch Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The Council has referred to the need for financial contributions to mitigate for impacts upon biodiversity interests. A Section 106 planning obligation (S106) has now been submitted by the appellants and I return to that matter below.

Main Issues

4. The first is the effect of the proposal upon the living conditions of the occupiers at adjoining properties with respect to privacy, outlook and light. The second main issue is the effect of the proposals upon the character and appearance of the area.

Reasons

Living conditions

5. The appeal site is a large detached building on the northern side of Lymington Road which has accommodation over 3 storeys. The neighbouring dwellings on both sides are also large and detached within spacious plots with generous rear gardens. The site includes a modest car-park behind a short, enclosed garden at the rear of the existing building.
6. The proposed building would incorporate 10 dwellings. The building would be higher than the existing dwelling in the main part which would include 4

storeys (1 within the roof-space). This front part would be approximately in line with the adjoining dwellings on either side at Nos 426 and 430 Lymington Road. The rearward section would extend out from the back of the main part, 3 storeys high (again, 1 within the roof-space). This would be much higher than the existing single storey parts of the current dwelling.

7. The existing dwelling includes side and rear windows. The proposal would involve the creation of further windows on both sides and the rear elevations. There is some overlooking already from side and rear windows within the existing building as one would expect in a heavily developed urban area. The windows in the first and second floor side elevations of the existing building enable some views across to the gardens of Nos 426 and 430. However, the buildings including those within the neighbouring gardens help to interrupt views. I visited No 430 and whilst there is some perception of being overlooked from side and rear windows within No 428, there are also areas at the immediate rear of the dwelling that are secluded and private such as the decked area and glazed conservatory.
8. The proposal would include windows further rearward than existing side windows and therefore potential views would not be as obscured by remaining structures at neighbouring dwellings. The flats are likely to be more intensively used than bedrooms within the existing bed and breakfast. Obscure glazing is proposed for some of the side windows to prevent overlooking from those rooms. However, although the side elevation of the rearward section would be off-set from the mutual boundary, the proposed building would extend substantially further back at first, second and third floor level. A first floor kitchen window in proposed unit 6 and a living room window within proposed unit 8 would provide clear vantage points to the immediate rear of No 430. The window within unit 6 is proposed to be obscured glazed. However, it would serve a busy room where lights would be on regularly and the shapes of people inside noticeable. The adjoining neighbours would have a perception of a loss of privacy from this along with actual loss of privacy due to the height and position of the side window proposed for unit 8.
9. The corresponding windows within the south-western elevation would also provide vantage points over the rear garden of No 426 although I did not have an opportunity to visit that property. One of those windows would be obscured glazed serving a bathroom but again it could give a perception of a loss of for the adjoining neighbours. The higher living room window would look down over the conservatory roof and towards the rear garden of No 426.
10. Proposed windows within the rear elevation would also create some overlooking to the sides but this would be less intimidating for those neighbouring residents. In terms of the impact upon No 1 Seaton Road, any additional overlooking would be at a substantial distance which would not be unreasonable in an urban area with a degree mutual overlooking.
11. The reward projection and additional bulk of the front part of the proposed building would be very noticeable from the gardens and rooms with side windows in the adjoining properties. There would be a set-back from the side boundaries but the additional height and bulk of the structures would have a considerably greater impact upon neighbouring residents than the existing building. The proposal would loom over people within the adjoining garden and ground floor rooms at No 430 bringing a greater sense of being hemmed in.

12. The impact upon both neighbouring properties in terms of daylight reaching the garden areas and rooms, as demonstrated by the appellant's daylight impact study, would not generally be substantial. However, the effect upon the west facing windows at No 430, particularly the conservatory, according to the report is on the margins of acceptability according to the quoted guidelines. That study does also show that there would be a period in the afternoon between 13.00 hours and 15.00 hours on the assumed date of 21 March when the degree of additional overshadowing of the garden and conservatory of No 430 would be substantially more than at present. The conservatory is a main living area and I consider these impacts would cause a reduction in the enjoyment of that room and the garden close to it.
13. I give little weight to the limited details that I have been given in relation to an extension to the existing building that was approved in 2008. That is not a valid fallback proposal as it could no longer be implemented.
14. The proposal would include a large rear garden. The reduction in activity due to the loss of the car park would reduce impacts upon nearby residents. However, overall in relation to this main issue, the proposal would have a harmful effect upon the living conditions of the occupiers at adjoining properties due to the impacts upon privacy, outlook and light. Due to these adverse impacts, the proposal would not comply with Policy H12 of the Local Plan¹ (LP) and Policy HE2 of the Core Strategy (CS)². The requirement in paragraph 17 of the National Planning Policy Framework (the Framework) to secure a good standard of amenity for all existing and future occupants of land and buildings would not be met.

Character and appearance

15. The existing building at the appeal site is of a similar scale as those nearby in this part of Lymington Road. There is some variety in the details of the buildings although No 428 at the moment has similar appearance at the front to the adjoining property at No 426. There is much more variety to the form of rear elevations due to a range of additions and alterations.
16. The proposal would include some similar design details as the existing front elevation. The proposed gables that would give the building a balanced appearance and would reflect the existing front gable and that on No 426. Although the proposed building would be higher than the existing and neighbouring buildings, it would not be to an extent that would be incongruous within the road frontage. The rear view of the building would also be balanced and would not look out of keeping with the row of dwellings.
17. In relation to this main issue, the proposal would have an acceptable effect upon the character and appearance of the area. In these respects, the proposal would comply with LP Policy H12 and CS Policy HE2. In this regard, the proposal would constitute a good design, as required by paragraph 56 of the Framework.

Other Matters

18. The proposal would provide 10 dwellings in an area that is accessible to a good range of services and facilities without reliance upon private vehicles. This is

¹ Borough of Christchurch Local Plan, adopted March 2001

² Christchurch and East Dorset Local Plan, Part 1 – Core Strategy Version for Council Adoption, April 2014

an emerging type of development in the area. However, this and my conclusion in relation to the second main issue do not outweigh my concerns with respect to the first main issue.

19. The appeal site falls within 5km of the Dorset Heathlands Special Protection Area, as well as the Dorset Heaths Special Area of Conservation. A S106 has been submitted to accord with the Dorset Heathlands Planning Framework 2015-2020. However, given my overall conclusion in this case it is unnecessary for me to consider the document.

Conclusion

20. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR