
Appeal Decision

Site visit made on 16 August 2017

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 23 August 2017

Appeal Ref: APP/E1210/W/17/3173292

Land to rear of 29-31 Jumpers Avenue, Christchurch, Dorset BH23 2ER

- 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 Charro Properties and 108 Projects against the decision of Christchurch Borough Council.
 - The application Ref 8/16/1544/FUL, dated 13 May 2016, was refused by notice dated 8 March 2017.
 - The development proposed is the erection of two 3-bedroom dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted a S106 planning obligation by way of Unilateral Undertaking (UU) signed by the owners of the appeal site dated 17 July 2017. This obligation ensures that the development the subject of any grant of permission shall not be commenced until the strategic access management and monitoring (SAMM) contribution has been paid to the Council in accordance with the adopted *Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document*. Although the Council state that they are still taking legal advice about the UU¹ I consider it successfully meets the three tests required of such planning obligations as set out in Regulation 122 of the *Community Infrastructure Levy Regulations 2010*, and so it successfully overcomes the Council's last refusal reason. The Council has confirmed that the appellant has submitted the requisite CIL paperwork and that this overcomes its third refusal reason².

Main Issue

3. Consequently the main issues are the effect of the proposed development on the character and appearance of the area and on the living conditions of adjoining residents, with particular reference to noise and disturbance.

Reasons

Character and Appearance

4. This part of Jumpers Avenue is characterised by a mix of two storey detached and semi-detached houses, some of which are post-war infill developments.

¹ LPA appeal statement, paragraph 5.38

² Ibid paragraph 6.13

Examples of the latter are the bungalows at Nos 33a and 33b, the newer two storey houses at The Old Boat Yard adjacent and the backland development further down the street at The Hurdles.

5. Nos 29 and 31 are a pair of Victorian/Edwardian two storey semi-detached houses. Beyond that to the south is another similar pair of houses at Nos 23 and 25. To the north of No 29, on the right angle bend in the street, is a post-war detached chalet bungalow beyond which are the bungalows at 33a and b and The Old Boat Yard houses. The proposal is to erect two chalet bungalows in the severed rear gardens of Nos 29 and 31 and create a new vehicular access along the narrow side garden of No 27.
6. The appellant argues that the appeal proposal is no different to the above nearby examples of infill development. However, although Nos 33a and b and The Old Boat House dwellings are set back from the street frontage most of them are clearly visible from the street and are not backland development in the sense that the appeal scheme properties would be. The access to them is generally wider and certainly less constrained than that proposed here. That also goes for the access into The Hurdles between Nos 1 and 5 Jumpers Avenue. It is evident that No 3 was demolished to form an access road width of suitable dimensions with adequate landscaping to its edges. So whilst The Hurdles is true backland development it has been planned in a proper way.
7. The appellant cites the backland development at the end of Gardner Road, the next parallel road to the east (Nos 21a and b, and Nos 31, 31a and b). But most of those backland dwellings do not appear to be recent and were likely to have been erected under a different policy regime, and so are not directly comparable.
8. It also argues what it considers to be recent precedent in the form of three appeal proposals for backland development in the wider area. I went to those sites and noted that the permissions granted at River Way and Grove Road East have not been implemented and, in the absence of the approved plans, I cannot judge whether those schemes are comparable with the appeal scheme. The scheme to the rear of 26-28 Grove Road West (known as Plessis Close) appears similar to the appeal proposal in that it comprises two chalet bungalows accessed between the sides of two existing houses. But it appeared to me that the access was wider than that proposed here and again, in the absence of the approved plans to scale, I cannot properly compare the two schemes.
9. In any case I must assess this case on its individual merits. The proposed access is very narrow, considerably narrower than that to The Old Boat Yard or The Hurdles. I consider such a constrained access to be at odds with the character and appearance of these nearby sites and the immediate area for the above reasons. I also consider the proposed dwellings' parking and turning areas to be very cramped and impractical and that this aspect of the scheme too would fail to match the character and appearance of the area. For these reasons I conclude that the proposed development would significantly harm the area's character and appearance.

Living Conditions of Adjoining Residents

10. The narrow access and the creation of the proposed site would leave No 29 with a small area of rear garden, which would need to be surrounded by a high

enclosing wall or fence, which would further constrain this space. That combined with the daily traffic movements from two new 3-bedroom dwellings, even if each dwelling's occupiers only had one car each, would lead to a significant deterioration in living conditions for the occupants of No 27. This is because the vehicle movements so close to such a constrained rear garden area and to its rear windows would lead to a substantial increase in noise and disturbance, which could include such comings and goings late at night or early in the morning.

11. There would be a lesser impact to the occupants of No 27 because its garage/side extension separates that dwelling from the proposed access and there are no windows in the main side elevations of either Nos 27 or 29. But there would still be unacceptable noise impacts to the rear garden of this property, whose occupants reasonably expect a degree of peace, for instance when sitting out in their private garden in the summer.
12. I am also concerned about the likely impacts on surrounding residents' living conditions by the constrained nature of the proposed layout. I acknowledge that the Local Highway Authority has not raised any objection to the proposal. But I find this rather surprising for two reasons. First, because only one parking space is provided for each of the proposed dwellings, contrary to its own adopted guidelines, which suggest two parking spaces for each 3-bedroom dwelling plus visitor space³. Secondly, because it seems to me from my site visit on a mid-week morning and from residents' objections, that Jumpers Avenue is heavily parked and that the likely overspill parking onto the street resulting from the lack of sufficient on-site parking is likely to exacerbate this situation to the detriment of nearby residents' living conditions on the basis that they will face more competition for the existing on-street spaces and more likely conflict as a result.
13. Alternatively, residents of the proposed dwellings would try parking any additional cars they are likely to own on the site itself, which barely has enough parking and turning space for one car each. This would be likely to give rise to additional turning movements as well as potentially to conflict between the occupiers of the two dwellings, one or both of which would result in additional noise and disturbance to adjoining neighbours.
14. For these reasons I conclude that the proposed development would significantly harm the living conditions of adjoining residents, with particular reference to noise and disturbance and/or in terms of parking stress in the area.

Conclusion

15. Policy HE2 of the Christchurch and East Dorset Local Plan Part 1 and Policy H12 of the Borough of Christchurch Local Plan (2001) together require development to respect the immediate character of the area and not to adversely affect the living conditions of existing and future occupiers. For the above reasons the proposal would fail to comply with these development plan Policies. Consequently I conclude that the appeal should be dismissed.

Nick Fagan

INSPECTOR

³ Residential Car Parking Provision: Local Guidelines for Dorset, May 2011, Table 1