The Planning Inspectorate

Appeal Decision

Site visit made on 20 March 2018

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2018

Appeal Ref: APP/E1210/W/17/3191894
23 Footners Lane, Burton, Christchurch BH23 7NT

- 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 Mr M White against the decision of Christchurch Borough Council.
- The application Ref 8/17/1937/FUL, dated 11 July 2017, was refused by notice dated 24 October 2017.
- The development proposed is plot severance and erection of a single dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are firstly, the effect of the proposed development on the character and appearance of its surroundings; and secondly, the effects of the proposed development on the living conditions of the occupants of adjacent properties in terms of noise and disturbance.

Reasons

Character and Appearance

3. Set in the leafy and predominantly residential environs of Footners Lane, the appeal site, like its neighbours on both sides hosts a detached dwelling set well back from the highway with a long rear plot. Whilst the scales of detached dwellings in the immediate surroundings vary from true bungalows such as No 23, to one and a half storey properties, they follow broadly traditional forms incorporating brick and render in their facing and pitched roofs including hipped and gable designs, amongst others. The appeal site is outside of the Burton Conservation Area, the boundary of which excludes the bungalows on Footners Lane and is tightly drawn around the more traditional buildings and their grounds close to the lane's junction with Salisbury Road.

4. The appeal scheme would entail the development of a dwelling to the rear of No 23's plot on part of it that I saw is currently fenced off from the rear garden by the tall close-boarded fencing typical of its surroundings and occupied by several sheds and extensive hard standing. The proposed single-storey dwelling would be of a contemporary flat-roofed design and accessed via the existing drive to the side of No 23, that serves this rear area of its plot.

5. The proposed development would introduce a separate dwelling significantly behind the developed frontage of the Lane, and would have a constrained plot which would be a considerable contrast to the more generous plotting of its adjacent Footners Lane dwellings. The consequent cramped appearance and incongruous siting of the appeal scheme would therefore be at jarring variance with the character of its surroundings. Whilst I am mindful that the appellant considers the density of the proposed development would be similar to that of its wider surroundings this would not serve to soften its overall incongruity in these respects.

6. Due to its siting, the proposed dwelling would be readily visible from Footners Lane, where the extensive glazing of its front aspect would be eye catching, and in gaps between the dwellings of Whitehayes Close to the rear. From these viewpoints its incongruous siting and cramped plotting would be particularly marked. Moreover, in these views too the proposed dwelling's extensive flat roof would be visually jarring in the context of the predominantly pitched roof forms of surrounding dwellings.

7. As a consequence, I consider that the proposed development would cause clear and considerable harm to the character and appearance of its surroundings. In arriving at this view I have taken into account the examples of plot severance in the wider area referenced by the appellant[1]- nevertheless the immediate context for the proposed development is provided by the deep and generous plots of the row of houses within which it would be situated, which are otherwise uninterrupted by additional dwellings at their rears.

8. The proposed development's effects in character and appearance terms would be more marked than the current physical separation of the site and the structures present there which are more clearly ancillary and less substantial in nature than the proposed dwelling would be. Consequently, the current arrangement of the appeal site does not weigh in favour of the appeal proposal.

9. The appellant considers that permitted development rights pertaining to buildings incidental to the enjoyment of a dwellinghouse arising from the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) could allow a building of a similar overall scale and site coverage to the proposed dwelling. Whilst I concur with the appellant's view that it is not necessary to produce a Certificate of Lawful Development in order to establish that such GPDO rights exist for such rights to constitute a material consideration, I have been supplied with no substantive evidence to suggest that such an extensive incidental building is anything other than a theoretical possibility in this instance. Moreover, such a building would clearly serve a different function to the appeal scheme- and thus to my mind would not constitute a genuine alternative. For these reasons, the existence of permitted development rights in this instance carries limited weight, and does not alter my conclusions on the character and appearance harm that the appeal scheme would cause.

10. The appellant supplied documentation relating to the demolition and residential redevelopment of 8 Footners Lane[2]. However, the site in that instance relates much more closely to the Conservation Area and the more irregular plotting

[1] Council references 8/15/0673; 8/12/0511; 8/09/0534
[2] Council reference:8/09/0534; 8/09/0007; 8/09/0534

and development pattern found therein than the more ordered suburban arrangement of the part of Footners Lane where the appeal site is situated. Consequently, this previous development, whilst material, neither establishes a precedent nor provides a context for the appeal scheme.

11. The rear portion of No 23's plot is separated considerably from the Conservation Area boundary; and intervening structures and planting, including mature specimens subject to a Tree Preservation Order serve to limit inter-visibility between the appeal site and the Conservation Area. Moreover, there is a clear visual distinction between the suburban character of Footners Lane, and the historic core of Burton. Consequently, I consider that the proposed development would not erode the Conservation Area's setting and thus would not diminish its significance or harm its character and appearance. In arriving at this view, I have taken into account the relevant Historic England[3] guidance. However, the proposed development's lack of harm in this respect has only a neutral effect on the overall planning balance and thus does not outweigh the other character and appearance harms I have described.

12. Taken together, these considerations lead me to the conclusion on this first main issue that the proposed development would cause considerable harm to the character and appearance of its surroundings, and would therefore conflict with policy HE2 of the Christchurch and East Dorset Local Plan Part 1-Core Strategy (adopted April 2014) (the Core Strategy); and Policy H12 of the Borough of Christchurch Local Plan (adopted March 2001) (the Local Plan). Taken together and amongst other things, these policies seek to ensure that development is appropriate in terms of the character of the immediate locality and is compatible with its surroundings.

13. However, as I have concluded that the proposed development would not harm the character, appearance or significance of the Conservation Area the proposed development would not conflict with Policy HE1 of the Core Strategy or the National Planning Policy Framework (the Framework) insofar as these policies, taken together and amongst other things, seek to ensure that heritage assets are conserved in a manner appropriate to their significance.

Living Conditions

14. I saw that access exists along the side of No 23 to the rear of the appeal site, and I note the appellant's comments regarding its current use, including as a workshop. Given the current nature of this rear part of the appeal site I consider that a degree of noise and disturbance would be created as a result of this, both from vehicle movements and activities in and around the structures present. Consequently, whilst the proposed development could lead to some further vehicle movements and activity at the rear of the appeal site, I consider that it has not been demonstrated that this would be of an intensity that would result in a material increase to any noise and disturbance emanating from there.

15. As a result, these considerations lead me to the conclusion on this main issue that the proposed development would not cause harm to the living conditions of the occupants of adjacent properties in terms of noise and disturbance. The proposed development would therefore not conflict with Policy HE2 of the Core Strategy or Policy H12 of the Local Plan insofar as, taken together, and

[3] The Setting of Heritage Assets-Historic Environment Good Practice Advice in Planning: 3

amongst other things, they seek to ensure that development does not adversely affect the amenities of existing and future occupiers as a result of noise and disturbance.

Other Matters

16. The appellant supplied a copy of a recent appeal decision relating to a development proposal in the borough[4], which found that he Council could not demonstrate a five year supply of deliverable housing sites. The Council has not disputed these findings in this case or supplied up-to-date information in respect of the five year supply situation.

17. Consequently, I am mindful of paragraph 49 of the Framework, which states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot deliver a five-year supply of deliverable housing sites. Consequently, paragraph 14 of the Framework is relevant which sets out that permission should be granted for development proposals unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

18. The proposed development would supply an additional house which would help to address the undersupply in the Borough, although only to a very modest degree. Consequently, whilst this is a benefit of the proposed development, it nevertheless carries only moderate weight in favour of the appeal scheme in this instance.

19. I have been supplied with a signed unilateral planning obligation to secure Strategic Access Management and Monitoring (SAMM) arrangements at the Dorset Heathlands Special Protection Area, Ramsar Site and the Dorset Heaths candidate Special Area of Conservation. As the contribution would support management and monitoring arrangements, I consider that this would not constitute infrastructure provision. Moreover, as the contribution secured is required by the development plan, and the Framework sets out that significant harm to biodiversity interests should be mitigated[5] the obligation is clearly necessary in planning terms. The location of the appeal site in respect of the Heathlands, and the scale of the charge incurred is set out in the Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (adopted January 2016), and related to the type and size of the appeal scheme Consequently, I consider that the contribution is directly related to the proposed development and fairly and reasonably related in scale and kind to it.

20. Taken together, these considerations lead me to the view that the obligation meets the requirements of the Community Infrastructure Levy Regulations 2010 (as amended)[6], and the Framework[7]. However, whilst I am satisfied that the obligation is a legally effective mechanism to secure a SAMM contribution, given that it would secure mitigation of harm to the Heathlands connected to the residential development of the appeal site, it is not a positive benefit of the scheme and thus has only a neutral effect on the overall planning balance.

[4] APP/U1240/W/17/3169111 Decision Date: 6 November 2017
[5] At paragraph 118
[6] Regulations 122 and 123
[7] Paragraph 204

Planning Balance and Conclusion

21. The proposed development would avoid harm to the character and appearance of the Conservation Area and the living conditions of the occupants of adjacent dwellings in terms of noise and disturbance. These aspects of the development merely point to an absence of harm in these regards rather than positive benefits of the scheme, however, and consequently have only a neutral effect on the overall planning balance.

22. On the other hand, for the reasons set out above the proposed development would cause clear and considerable harm to the character and appearance of its surroundings, and would consequently conflict with the Framework insofar as it seeks to ensure that development responds to local character and reflects the identity of local surroundings. The proposed development's adverse impact in this regard is a matter to which I accord considerable weight in the overall planning balance which in this instance significantly and demonstrably outweighs the moderate weight I attach to its benefits: the proposed development would therefore not comprise sustainable development for the purposes of the Framework.

23. Consequently, no material considerations have been advanced in this case of a sufficient weight to justify a decision not in accordance with the development plan, with which the appeal scheme conflicts. Accordingly, for the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR