



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: 02 May 2018

Appeal Ref: APP/G1250/W/17/3186920

1A Warren Edge Road, Bournemouth BH6 4AU

- 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 Christopher Lodge against the decision of Bournemouth Borough Council.
 - The application Ref 7-2017-8851-B, dated 10 April 2017, was refused by notice dated 27 July 2017.
 - The development proposed is described as "Erection of block of 6 dwelling houses in cluster formation with car parking and amenity garden areas following demolition of existing house"
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues in this appeal to be firstly, the effect of the proposed development on the character and appearance of the site and its surroundings including its effect on the setting of the Grade II Listed Buildings (Sterlings and the Briar Patch); secondly, the effect of the appeal scheme on the living conditions of the occupants of 1 Warren Edge Road in terms of outlook; and thirdly, the effects of the appeal scheme on the Dorset Heathlands.

Reasons

Character, Appearance and Setting

3. In a prominent location on the corner of Warren Edge Road and St Catherine's Road, the appeal site currently comprises a two-storey house and its well-vegetated plot. Due to the existing building's set back from the highways, and its limited site coverage, the appeal site contributes considerably to the verdant, relatively spacious plotting of this part of St Catherine's Road, which has a pleasant intrinsically suburban character.
4. Two Grade II Listed Buildings are adjacent to this thoroughfare: the Briar Patch, an Edwardian Villa in the arts and crafts style, set well back from the street frontages of its plot within generous grounds fringed by mature trees is situated adjacent to the opposite corner of Warren Edge Road to the appeal site; and Sterlings, a substantial Edwardian Villa situated across St Catherine's Road from the appeal site, is set deeply back from the highway in a large plot containing several tall and mature trees. The significance of these Listed

Buildings resides to some degree from their suburban residential aesthetic, to which their predominantly well-vegetated and generous plots contribute considerably. As Sterlings and the Briar Patch are experienced within the leafy residential surroundings of the adjacent part of St Catherine's Road, the spaciousness of development there, including at the appeal site, makes a marked contribution to the suburban character, and thus the settings and significance of the Listed Buildings.

5. The appeal proposal, as described above, would demolish the existing dwelling on the site to make way for 6 dwellings of two storeys, with accommodation also in the pitched roofspace. The proposed development would have a long elevation fronting St Catherine's Road comprising four dwellings, with two further dwellings behind these. The mooted building would be separated from Warren Edge Road by the proposed parking area.
6. The appeal scheme would intensify development on the site to a substantial degree- not only in terms of the proposed building, but also in terms of the excessive area of hardstanding, and the mooted cycle and bin storage areas, several of which would be along the proposed frontage to St Catherine's Road. These measures, taken together, would significantly reduce the amount of space available for landscaping at the site. Consequently, these aspects of the proposal would substantially erode the spaciousness of the appeal site and its contribution to the character of the streetscene, and as a result diminish the setting of the nearby Listed Buildings, to the detriment of their significance.
7. Moreover, these aspects of the appeal scheme taken together with the proposed building's massing, siting and tight relationship to the boundary with 1 Warren Edge Road would impart a cramped congestion to the appeal site. As a consequence, the proposed development would constitute a visually jarring element within the streetscene. Moreover, its assertive scale combined with its prominent St Catherine's Road siting would impart a dominant appearance to the proposed development, which would exacerbate its harmful effects to the character of the streetscene. I readily accept that pitched roofs, gables and other elements of the appeal scheme would reflect the design of some of its surrounding properties- nevertheless these features of the proposed development would not soften the harmful effects I have described to any material degree.
8. Whilst I note that in the wider surroundings of the appeal site, including further along Warren Edge Road itself, types, styles, scales and densities of properties are varied, the appeal site's prominent positioning within the more leafy and spacious immediate environs of the St Catherine's Road junction and its current contribution to that character differentiate it from those other cited examples. No 2, on the opposite side of Warren Edge Road is a building of comparable scale and massing to the appeal proposal- nevertheless it is separated considerably from St Catherine's Road, and set well back from Warren Edge Road behind an expanse of lawn. This siting and plotting combined with the adjacent mature trees in the grounds of the Briar Patch act as a buffer which reduces No 2's visual implications within the settings of the Listed Buildings, and the St Catherine's Road streetscene more generally. Consequently, and in contrast to the appeal proposal, No 2 looks neither dominant within the Saint Catherine's Road streetscene, nor cramped, nor erodes the setting of the Listed Buildings.

9. Consequently, mindful of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the proposed development would fail to preserve the settings of Sterlings and the Briar Patch. Moreover, for the above reasons, I consider that the proposed development would also cause considerable harm to the character and appearance of the site and its surroundings. As a result, the proposed development would conflict with Policy 6.8 of the Bournemouth District Wide Local Plan (adopted February 2002) (the Local Plan); and Policies CS21, CS39 and CS41 of the Bournemouth Core Strategy (adopted October 2012) (the Core Strategy); and Bournemouth's Residential Development: A Design Guide (adopted September 2008) (the Design Guide). The policies and guidance, amongst other things and taken together, seek to ensure that development complements the character of neighbouring development; protects heritage assets from proposals that would adversely affect their significance; and respects the character and appearance of its site and surroundings.

Living Conditions

10. I saw that the site level of No 1 was considerably lower than that of the appeal site and that glazed doors on its flank at this lower level access a garden area close to the boundary with the appeal site. Nevertheless, whilst the proposed building would be of a larger scale than the existing dwelling at the appeal site, the elements of it that would be closest to the glazed doors of No 1 would be angled away and more or less on a line with the gable of the existing house. Therefore, whilst the proposed building would undoubtedly be visible from the glazed doors it would not diminish the outlook available from there to a degree that would be harmful to the living conditions of the occupants of No 1.
11. No 1 has a large amenity space adjacent to the boundary with the appeal site. The scale of built development would increase on the appeal site, and would be closer to this amenity space than the existing house or other structures. Nevertheless the orientation of the proposed building would mean that only a limited portion of No 1's amenity space would be affected and as a result the appeal scheme would neither constitute an enclosing nor an oppressive feature within the outlook from there.
12. Consequently, taking these matters together, I consider that the proposed development would not constitute an overbearing structure that would lead to a harmful erosion of the outlook available from No 1. Accordingly, these considerations lead me to the conclusion on this main issue that the appeal scheme would not cause material harm to the living conditions of the occupants of No 1. As a result, the proposed development would not conflict with Policy 6.8 of the Local Plan; or Policies CS21 and CS41 of the Core Strategy; or the Design Guide insofar as they seek to ensure that development provides a pleasant residential environment; and respects the amenities of neighbouring residents.

Dorset Heathlands

13. The appeal site is within 5km of the Dorset Heathlands Special Protection Area (SPA), Ramsar Site and Dorset Heaths Special Area of Conservation (SAC). The National Planning Policy Framework (the Framework) establishes¹ that local planning authorities should set out criteria-based policies against which any

¹ At paragraph 113

development affecting protected wildlife sites, such as the Dorset Heathlands, should be assessed. Local policy in this respect is set out in Policy CS33 of the Core Strategy, which establishes that development in locations such as the appeal site will not be permitted where it would lead to an adverse effect to the integrity of the Heathlands. Amongst other things, the policy establishes that the adverse effects of residential development within 5km of the Heathlands to their integrity can be avoided by the provision of appropriate mitigation measures. The Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (adopted January 2016) (the SPD) sets out the types of mitigation measures that residential developments could make to address their potential harmful effects to the Heathlands- these include contributions to Strategic Access and Management Measures (SAMMs), usually secured by planning obligations.

14. As the SAMMs would fund initiatives such as monitoring, education and the provision of wardens in relation to the Heathlands, I am satisfied that they would not constitute infrastructure for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations). Consequently, I consider that an obligation to secure such mitigation measures would not fall foul of the statutory restrictions on pooling of such contributions provided by the CIL Regulations².
15. Moreover, as both national and local planning policies require appropriate responses to any potential harm to protected sites such as the Heathlands, a contribution to secure mitigation is clearly necessary to make the development acceptable in planning terms. Given the location of the appeal site and that the level of mitigation required is related to the scale of development as set out within the SPD, I conclude that an obligation to secure a SAMM contribution would not only be directly related to the proposed development, but also fairly and reasonably related in scale and kind to it. As a result, I consider that a planning contribution to secure SAMMs would meet the tests set out in the CIL Regulations³ and the Framework⁴ in these regards.
16. The appellant supplied a draft unilateral planning obligation in connection with SAMM contributions. Whilst I note the legal issues encountered by the appellant in finalising this agreement, as the draft obligation is not finalised, it does not constitute a legally enforceable mechanism to secure the contribution required to mitigate the proposed development's potential harm to the integrity of the Heathlands.
17. As a result, it has not been demonstrated that the proposed development would avoid significant effects to the integrity of the Heathlands. Consequently, the proposed development would conflict with Policy CS33 of the Core Strategy, and the SPD in these regards, insofar as they require, amongst other things, residential development within 5km of the Heathlands to make provision for mitigation designed to avoid adverse effects taking place to its integrity. For these reasons too, the proposed development would not comply with the terms of the Conservation of Habitats and Species Regulations 2010 (as amended).

² Per Regulation 123

³ Per Regulation 122

⁴ At Paragraph 204

Other Matters

18. The proposed development would supply housing suitable for families in an accessible location. This would be a clear public benefit of the proposal that carries moderate weight in its favour.
19. The appellant considers that the proposed development would deliver a more efficient use of the appeal site, in line with national policy objectives. As a public benefit, this weighs in favour of the scheme to a modest degree.
20. The proposed development could avoid harmful privacy impacts due to the lack of fenestration in upper floors on common boundaries. This may be the case- however, this merely points to an absence of harm in these regards rather than a positive benefit of the scheme. As a result this matter has only a neutral effect on the overall planning balance.
21. There were no objections to the scheme from the local highway authority. Again this is only evidence of a lack of harm in these regards rather than a positive effect of the appeal scheme and thus does not weigh in its favour. Similarly, the lack of adverse flooding effects that could be caused by the proposed development and its ability to make acceptable arrangements for drainage are matters that affect the planning balance in a neutral manner.
22. The proposed development would meet the accessibility requirements of the Building Regulations 2010 (as amended). However, as this is a statutory requirement relating to the provision of new dwellings, it accordingly has only a neutral effect on the planning balance.

Planning Balance and Conclusion

23. The Framework anticipates that once a finding of harm to the significance of designated heritage assets such as Listed Buildings has been made that the level of that harm should be assessed. Whilst in this instance the harm caused by the proposed development to the significance of the nearby Listed Buildings would clearly be less than substantial, this does not imply that less than substantial weight should be attached to that harm in the overall planning balance. Indeed the Framework establishes⁵ that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Moreover, the harm should be weighed against the public benefits of the proposal⁶.
24. In the current case, the public benefits advanced in favour of the proposed development do not, either taken individually or cumulatively, outweigh the great weight and importance I attach to the harm the appeal scheme would cause to the significance of Sterlings and the Briar Patch. The proposed development would therefore conflict with the policies of the Framework in this regard.
25. I have concluded that the proposed development would avoid material harm to the living conditions of the occupants of No 1. However, this is a matter that has only a neutral effect on the overall planning balance, and consequently, does not weigh in favour of the appeal scheme. Moreover, none of the other matters advanced in favour of the appeal scheme outweigh its harmful effects

⁵ At paragraph 132

⁶ At paragraph 134

to the character and appearance of the site and its surroundings including the setting of the Listed Buildings, or its lack of a legally effective mechanism to secure appropriate mitigation for the Dorset Heathlands.

26. As a consequence, no material considerations have been advanced in this instance sufficient to justify a decision other than in accordance with the development plan, with which, in terms of the above-referenced policies, the appeal scheme clearly 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