
Appeal Decision

Site visit made on 20 November 2018

by J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date: 17th December 2018

Appeal Ref: APP/G1250/W/18/3200909

8 Branksome Dene Road, Bournemouth BH4 8JW

- 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 A Ellis against the decision of Bournemouth Borough Council.
 - The application Ref 7-2018-26088-C, dated 15 January 2018, was refused by notice dated 13 March 2018.
 - The development proposed is to demolish existing building and erect 1 pair of 4 bedroom semi-detached houses with parking.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The revised version of the National Planning Policy Framework (the Framework) was published on 24 July 2018. Parties were able to comment on any changes associated with this revised version in respect of this appeal.
3. The appellant has submitted amended drawings to address the Council's concerns. However the appeal process should not be used as a means to progress alternative schemes. Where plans which form a material change to a scheme regard should be had to the 'Wheatcroft' principles. In this case the Council have made it clear that the amendments have not been the subject of consultation. As they would alter the nature of the application in relation to the neighbour, those who should have been consulted on the changed development would be deprived of that opportunity. I therefore intend to deal with this appeal on the basis of the original plans on which consultation was undertaken and on which the Councils' decision was made.
4. The appeal was accompanied by a Planning Obligation by way of Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) to provide mitigation for the effects of the proposed development on the Dorset Heathlands. I will return to this later.
5. Permission was dismissed at appeal¹ in 2017 for the erection of a separate dwelling in the garden of No 8. A subsequent application for a single detached dwelling was granted planning permission in 2017². The form, bulk and footprint of the building now proposed is similar to that approved by the Council however the building and plot are still to be divided into two.

¹ APP/G1250/W/17/3176905

² LPA reference APP 7-2017-26088-B

Main Issues

6. In the light of the above the main issues are the effect of the development on:
a) the character and appearance of the area with reference to the plot subdivision; and b) the living conditions of the occupiers of the proposed dwelling in terms of outlook.

Reasons

Character and appearance

7. Branksome Dene Road is characterised by large detached dwellings where there is a consistent architectural rhythm of two-storey properties with substantial bay windows and which have private gardens to the rear away from the public domain. There are some exceptions to this of which the appeal site is one example, currently accommodating a chalet bungalow style dwelling.
8. The land level slopes down from the west and north around the corner where No 8 is located. Gardens to No's 6, 8 (the appeal site) and 10 Branksome Dene Road are set around a metre higher than the adjacent the road level including the point where the existing vehicular access is located.
9. The appellant argues that the retaining wall and hedge will partially shield the property from overt views though this statement is at odds with the specification on the plan which indicates that the northern boundary would be a retaining wall and hedge no higher than one metre. A low boundary along the length of this frontage would result in the garden being visually exposed and prominent. Coupled with the elevated land level of the garden and the boundary treatment required to subdivide the plots it would have a greater impact on the character of the site than would be the case as its use as a garden to a single dwelling. I consider that this effect would be harmful to the character of the site.
10. The appellant highlights that the previous Inspector³ considered that two dwellings represented a density was out of keeping in the area whereas the proposal to contain both units within a single structure does not differ from other subdivisions which have been permitted in the vicinity of the site. The development plan is specific in relation to plot severance stating that any plot severance has to have sufficient land to be able to create a type and layout of development that preserves the areas character and that would not harm local amenity. In the context of the local area, the subdivision of the garden in the manner proposed would be out of keeping with the prevailing character, the need to keep the roadside boundary low to enable visibility would emphasise the visual prominence of the fencing/boundary treatment which would be needed to subdivide the garden to achieve privacy between units 1 and 2.
11. Whilst the appellant relies on the design of the properties being the same as that approved by the Council as a single dwelling this does not take into account the impact of the subdivision of the garden nor the separation of car parking introducing a semi-detached arrangement in a location where the prevailing character is larger detached dwellings. This would not preserve or enhance the strong character of the area as required by Policy CS22.

³ APP/G1250/W/17/3176905

12. The street scene provided in evidence to demonstrate the impact of the proposal does not fully show the existing mature vegetation on the boundary of the appeal site and No 10 Branksome Road. This vegetation overhangs the site and would influence the quality of the private garden space which would be cramped and dark due to the maturity of vegetation in the adjacent garden. This would affect the conditions in this narrow garden which the occupiers of Plot 1 would experience and which would be to their detriment.
13. For these reasons the development would conflict with Policies CS6, CS22 and CS41 of the Bournemouth Plan Core Strategy (2012) (Core Strategy) and to Saved policy 6.8 of the Bournemouth District Wide Local Plan (2002) (Local Plan) and to the Adopted Residential Development - a design guide (2008) (RDG) and the Framework. These policies and guidance together seek to apply good design principles and would not provide a good standard of amenity to meet the day to day requirements of future occupants. It would also be contrary to Policy 6.8 of the LP in that it would not provide a high standard of layout and design or provide a pleasant residential environment.

Living conditions

14. The first floor bedroom window to Unit 1 would be in very close proximity to the wall of the adjacent house. This would create a poor outlook which would be harmful to the living conditions of the future occupiers of this room. Whilst the appellant has sought to amend the proposal to alter the internal layout to make this a bathroom window I have already explained the reason why I have not taken that amended plan into account.
15. Consequently the proposal would conflict with Policies CS6, CS22 and CS41 of the Core Strategy and to Saved policy 6.8 of the Local Plan and to the RDG. These policies and guidance together seek apply good design principles, provide a pleasant residential environment and high standard of amenity to future occupants and ensure no harm is caused to living conditions.

Other matters

16. The Council say the existing bungalow consented in 1955 was itself a subdivision of the garden of the adjacent plot number 10. The appellant contends that the land registry title for No 8 dates back to 1926 and is therefore long established in its own right. Notwithstanding this difference the appeal examines the current arrangement and the history to how and when Number 8 was originally formed as a single dwelling has no bearing on my findings.
17. Reference has been made to other properties in the locality which have been subdivided. Whilst some details have been referred to in evidence I do not have the full details, from what I have seen and read the circumstances of those cases are not the same as in the appeal proposal, though aspects do bear some similarities. Nonetheless I am required to make a decision on the basis of this case on its own merits and these comparisons do not lead me to a different conclusion.
18. Reference is made by the appellant to the Framework aims of boosting the supply of housing. However I have no evidence that the Council cannot meet housing supply requirements and therefore the application of the tilted balance under paragraph 11 does not apply.

19. The appellant say the Council have not referred to the Framework in their decision. Fundamentally planning law requires that applications for planning permission be determined in accordance with the development plan⁴ and this is emphasised in the Framework. Whilst the Council do not mention the Framework specifically they clearly refer to it in their delegated report and I have also had regard to it in reaching my decision.
20. Representations have been made on a matter of a restrictive covenant however this is a civil rather than a planning matter and does not affect the outcome of this planning appeal.
21. The site lies within 5 km of the Dorset Heathlands where additional residential development will have, in combination, a significant adverse impact on the integrity of the sites. The Councils Supplementary Planning Document "The Dorset Heathlands Planning Framework 2015 - 2020" provides a mechanism of providing mitigation through a range of measures; this is reflected in Policy CS33 of the Core Strategy.
22. I have been provided with a copy of a Unilateral Planning Obligation which would secure a contribution towards the Dorset Heathlands Mitigation Strategic Access Management and Monitoring. The Council has confirmed that the agreement is acceptable to them though I note that the agreement contains an erroneous reference to an affordable housing contribution in paragraph 5. Nonetheless given my overall conclusions on the appeal the obligation does not need to be considered further.
23. Local residents have made representations objecting to the proposal on the basis that the height and bulk of the property are a concern locally. I am mindful however that the proposed building would have the same physical impact as that previously approved by the Council in an alternative scheme which could proceed in any event. These factors do not however detract from the concerns I have in relation to the main issues and do not alter my decision.

Conclusion

24. For the reasons given above, and taking all other matters in to account, I conclude that the appeal should be dismissed.

Janet Wilson

INSPECTOR

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004