

---

## Appeal Decision

Site visit made on 17 June 2019

**by Andrew Tucker BA (Hons) IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 July 2019**

---

**Appeal Ref: APP/G1250/W/19/3225312**

**140 Kingswell Road, Bournemouth BH10 5DN**

- 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 AJ Developments against the decision of Bournemouth Borough Council.
  - The application Ref 7-2018-27293, dated 7 December 2018, was refused by notice dated 7 February 2019.
  - The development proposed is demolish existing dwelling and erect 1 no 3 bedroom chalet bungalow and 2 no 2 bedroom bungalows with parking.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. On 1 April 2019 Bournemouth Borough Council merged with Borough of Poole Council and Christchurch Borough Council to become Bournemouth, Christchurch and Poole Council. The development plans for the merged local planning authority remain in place for the former area of Bournemouth Borough Council until such a time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved Bournemouth Borough Council.

### Main Issues

3. The main issues are:
  - a) whether the proposed dwellings would secure satisfactory living conditions for future occupiers, and the effect of the proposal on the living conditions of existing occupiers at Nos 2, 4 and 6 Paven Gardens, with regard to privacy,
  - b) whether the proposed access is acceptable in terms of highway safety, and
  - c) the effect of the proposal on the character and appearance of the area.

### Reasons

#### *Living conditions*

4. The two dwellings that would sit to the rear of the existing plot would be close to the rear boundary. Each would have a small garden area with the living and

- kitchen area facing out to the rear towards the neighbouring properties, Nos 2, 4 and 6 Paven Gardens.
5. Page 43 of the Bournemouth Borough Council Residential Development Design Guide 2008 (RDDG) suggests that a minimum back to back distance between parallel 2 or 3 storey buildings is 21 metres. The distance between the rear elevation of the proposed dwellings and the rear elevation of the existing dwellings at Paven Gardens that face towards the appeal site would be substantially less than this. I note that the RDDG does not refer to distances between single storey buildings. Although the single storey scale of the proposed dwellings may have an effect on mutual overlooking, the ability to look out from the existing two storey dwellings towards the proposed dwellings would be the same as if they were two or three storeys.
  6. As the proposed dwellings would be single storey, future occupiers would not be able to easily look out over the neighbouring garden areas owing to the intervening boundary fence. I am therefore satisfied that the potential for overlooking towards the gardens of the existing dwellings arising from the proposed dwellings would be limited.
  7. Views towards the rear windows of the neighbouring dwellings are already possible from the existing garden area, however, the existing dwelling at the appeal site is set a substantial distance from the neighbouring dwellings. The proposed dwellings would be much closer, and from within living room areas at the rear occupiers of the proposed dwellings would be able to look up to the first-floor rear windows of the neighbouring dwellings. This direct view, at such a short distance, would reduce the level of privacy that occupiers of the existing dwellings currently enjoy.
  8. In reverse, occupiers of the existing neighbouring dwellings would be able to easily look down to the rear of the proposed dwellings from their large and clear glazed first-floor windows, into their living rooms and garden areas. The rear gardens of the proposed dwellings would be small, and limited only to the area at the rear that would be overlooked. I appreciate that the boundary fence would provide privacy to a small strip of garden, and that in more general terms this arrangement would be similar to many back-to-back gardens. However, the ability of neighbouring occupiers to easily look down from first floor rooms into the entire open plan living space of both of these proposed dwellings would result in a significant level of overlooking, owing to the inadequate distance between the properties.
  9. I am not satisfied that there are any material considerations that would lead me to take a more relaxed position than that set out in the RDDG in terms of an acceptable distance between the rear elevations of the respective dwellings. The level of overlooking would be significant and would not secure satisfactory living conditions for future occupiers. The proposal would also result in an adverse impact on the living conditions of existing occupiers at Nos 2, 4 and 6 Paven Gardens. The proposal would therefore be contrary to Saved Policy 6.8 of the Bournemouth District Wide Local Plan adopted 2002 and Policies CS21 and CS41 of the Bournemouth Local Plan Core Strategy adopted 2012 (CS), which seek to ensure that development proposals secure a high standard of amenity for existing and future occupiers.

### *Highway safety*

10. The existing driveway at the front of the appeal site, and many others associated with dwellings in the area, require a vehicle to either be reversed from or onto the highway. However, the appeal site differs from others as it is close to a kink in the road, which severely limits visibility in an easterly direction and therefore makes such vehicle manoeuvres more hazardous than if made at the front of other dwellings in the area. Although evidence submitted with the appeal suggests that there are no records of accidents in the vicinity of the appeal site I am not satisfied that the existing arrangement is safe, and therefore find that increasing the use of the site by adding two additional dwellings would have a harmful effect on highway safety.
11. The appellant has no control over neighbouring land adjacent to the front of the appeal site and is therefore not able to secure visibility improvements that could make the access safer. Furthermore, the presence of parked cars on the road in close proximity to the access has the potential to further restrict visibility.
12. In summary the proposal would have a harmful effect on highway safety, and would therefore conflict with Policy CS41 of the CS which seeks to ensure that development proposals contribute positively to the safety of the public realm.

### *Character and appearance*

13. The proposal would result in the demolition of the existing dwelling at the front of the site and its replacement with a dwelling of narrower proportions, to allow space for vehicular access into the rear of the site. The proposed replacement dwelling would be narrower than neighbouring dwellings, however there is some variety to built forms in the area. I am not therefore convinced that the proposed dwelling would look out of place. The neighbouring dwelling immediately east of the appeal site has a large front facing dormer window, which would relate satisfactorily to the smaller dormer to the front of the proposed dwelling. Furthermore, the narrower width of the proposed dwelling would also relate well to the scale of the side elevation of 1 Ibbet Road, which faces out towards Kingswell Road, to the west of the appeal site.
14. In terms of the loss of the front wall at the site I saw numerous examples of front boundaries in the area of the appeal site that had been removed or reduced in length to increase parking. In this context I do not consider the loss of the existing brick wall to the front of the site to be harmful.
15. In summary the proposal would not have a harmful effect on the character or appearance of the area. The proposal would therefore accord with local Policies insofar as they seek to achieve a high quality of design, however this matter would not outweigh the Policy conflict I have found in relation to living conditions and highway safety.

### **Other Matters**

16. The appeal site is within the buffer area of the Dorset Heathlands Special Protection Area, the Dorset Heathlands Ramsar Site and the Dorset Heathlands Special Area of Conservation. The addition of two residential units within this area would be likely to have a significant effect on the internationally important interest features of these areas. In accordance with Policy CS33 of the CS development will not be permitted within the buffer zone unless mitigation

measures have been secured. However, as I am dismissing the appeal the likely significant effect will not occur and this matter does not therefore need to be considered further.

17. From the evidence before me it would appear to be the case that the Council is unable to demonstrate a five year housing land supply. Even if I were to conclude that this is the case, and that the policies which are most important for determining the appeal should be considered out-of-date in accordance with paragraph 11 (d) of the National Planning Policy Framework (the Framework), I find that the matter would not outweigh my conclusion on the main issues. This is because the contribution that two additional dwellings would make to any under supply would be very limited, and the principles of highway safety and securing good living conditions are consistent with paragraphs 108, 109 and 127 of the Framework.
18. The proposal would also accord with CS Policy CS20, which actively encourages the provision of small family dwellings, and with Policy CS21 which encourages urban intensification in areas such as this with good transport links. However, the adverse impacts of allowing the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

### **Conclusion**

19. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and that the appeal is dismissed.

*Andrew Tucker*

INSPECTOR