



Appeal Decisions

Site visit made on 10 June 2019

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2019

Appeal A Ref: APP/G1250/W/19/3223870

158 Harewood Avenue, Bournemouth, BH7 7BG

- 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 & Mrs Myers against the decision of Bournemouth Borough Council.
 - The application Ref: 7-2018-23260-A dated 15 June 2018, was refused by notice dated 3 September 2018.
 - The development proposed is demolition of the existing building and construction of a pair of semi-detached bungalows with associated landscaping, parking and access.
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Appeal B Ref: APP/G1250/W/19/3224044

158 Harewood Avenue, Bournemouth, BH7 7BG

- 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 & Mrs Myers against the decision of Bournemouth Borough Council.
 - The application Ref: 7-2018-23260-B dated 13 December 2018, was refused by notice dated 12 February 2019.
 - The development proposed is demolition of existing building and construction of a pair of semi-detached bungalows with associated landscaping, parking and access (revised scheme).
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Decision

1. Appeal A is allowed and planning permission is granted for the demolition of existing building and construction of a pair of semi-detached bungalows with associated landscaping, parking and access at 158 Harewood Avenue, Bournemouth, BH7 7BG in accordance with the terms of the application Ref: 7-2018-23260-A dated 15 June 2018, subject to the conditions set out in the attached schedule.
2. Appeal B is dismissed.

Procedural Matter

3. The appeal site is affected by its proximity to the designated Dorset Heathlands Special Protection Area (SPA), Ramsar Site and Dorset Heaths Special Area of Conservation (SAC). The Council did not refer to this in its decision notice in respect of Appeal A but did so for Appeal B. It is evident from both the delegated report and Informative Note 3 of the Council's decision notice for Appeal A that it was the Council's intention to include this as a reason for

refusal. I have a statutory duty to deal with these matters and I have therefore proceeded on that basis.

4. On 1 April 2019, Bournemouth Borough Council merged with Christchurch Borough Council and Borough of Poole Council to become a Unitary Authority, Bournemouth, Christchurch and Poole (BCP) Council. Until such time as they are revoked or replaced, the development plans for the merged local planning authorities remain in place for the area which they relate to within the BCP authority. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved borough council.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the supply of family-sized housing;
 - the character and appearance of the area; and
 - the designated Dorset Heathlands SPA, Ramsar Site and Dorset Heaths SAC.
6. With regard to Appeal B, there is an additional main issue of the effect of the proposed development on the living conditions of future occupiers, with regard to the position of bins.

Reasons

Family-sized housing

7. Policy CS19 of the Bournemouth Local Plan: Core Strategy (2012) (the Core Strategy) resists the loss of small family sized dwellings through sub-division or demolition. The policy clarifies that a small family sized house for the purposes of the policy has an original gross external floor space of less than 140sqm. Such houses are generally considered too small for subdivision and often have three-bedrooms, for which there is significant demand.
8. The appeal proposal in both appeals, is to demolish the existing bungalow and replace it with a pair of semi-detached houses. The existing dwelling is small in size and shown on the plans as having 110sqm of floor area. The proposed dwellings combined are shown as having 186.5sqm. From my site visit, I observed that the existing bungalow has two bedrooms and that the study is not suitable for use as a bedroom as it is within a glazed porch area.
9. The proposed development in both Appeal A and Appeal B would provide two bungalows that would be a little smaller than the existing bungalow, but each would have two adequately sized bedrooms. I have no evidence before me that the proposed bungalows would provide less satisfactory accommodation than the existing. This leads me to conclude that the proposed development in both appeals would not result in a loss of small family sized dwellings.
10. I therefore conclude that the proposed development in both Appeal A and Appeal B would not harm the supply of family-sized housing. It would therefore accord with Policies CS19 and CS21 of the Core Strategy which together resist the loss of small family-sized dwellings and seek an appropriate provision of housing across Bournemouth.

Character and appearance

11. 158 Harewood Avenue (No. 158) is located on the north side of a residential street. Properties on the north side of Harewood Avenue are detached bungalows, set back behind reasonably deep front gardens and driveways. There is some variation in the design of bungalows including roof shapes, but the overall character derived from their size, heights, position within plots and materials is fairly consistent along the street. The street is tree lined with a planted verge and footpath separating the front boundary walls of properties from the carriageway.
12. In both appeals, the plot would be severed. The new houses would be semi-detached and share a front forecourt with parking for three vehicles accessed via a widened entrance which would require the removal of part of the front boundary wall and planted verge on the public highway. Appeal A proposes bin storage within the front forecourt. Appeal B proposes bin storage to the rear of the property and an increased area of soft landscaping to the front forecourt.
13. The development proposed in both appeals would follow a similar front building line to the existing bungalow. At the rear, the building would extend rearwards of the existing building line at ground floor level. In Appeal A, the roof of the proposed bungalows would be hipped, with smaller hipped roofs to the front and rear projections. In Appeal B, the roof would be hipped, with a flat roof and a uniform height across the entire building which would be lower than in Appeal A.
14. The subdivision of this plot would not be immediately apparent from the public realm due to the shared access and forecourt arrangements and the position of the entrance doors on the side elevations of the building. While many properties on this side of the road retain a front garden and a modestly sized driveway, there are also several forecourts that have been entirely given over to parking and therefore the use of the front forecourt for parking up to three cars is not inconsistent within the context of the wider area. The provision of planting within the front forecourt would also serve to reduce the starkness of this parking area. However, the layout and planting within Appeal A provides less landscaping and more prominent parking. It would therefore result in a more stark appearance to the front forecourt. A condition could ensure that suitable landscaping and parking layouts are provided.
15. The provision of bin storage within the front garden as proposed within Appeal A could draw attention to the severance of the plot. However, I observed that several properties had bins within their front forecourts. It also appeared that there would be adequate space within the plot to accommodate bin storage, and some form of screening or enclosure could be provided. It would therefore, in my view, be possible to condition details of this to ensure a satisfactory solution is found.
16. Due to the height of adjacent properties and the distance of houses to the rear on Harewood Gardens, views into the rear garden are limited. The subdivision of the rear garden would not be widely visible and would have a very limited impact on the character and appearance of the area.
17. The street has planted verges on both sides which are a distinctive verdant feature and make a positive contribution to the appearance of the street. The width of the enlarged driveway and removal of the shrub planting in the verge

would make the driveway a little more prominent within the street scene. However, there are examples of wide gaps in the verge to accommodate wider driveways, mainly on the opposite side of the street although there are a few wider driveways on the north side. Where these wider gaps exist, they do not interrupt the overall line of planted verge to any great extent and their impact on the appearance of the street scene is quite limited. I also note that the removal of the boundary could be undertaken in connection with the existing bungalow and that the appellant has already obtained permission to create a dropped kerb and wider driveway.

18. In both appeals the footprint would be larger than the existing dwelling, however, much of this additional floor space would be to the rear so with limited impact on the character and appearance of the wider area. Whilst the building line is fairly uniform, there are properties that have single storey rear extensions and conservatories, including to Nos. 156 and 160. The rear building line would be stepped so that it would align with No 160 but would extend further rearwards adjacent to No. 156 to align with what appears to be a single storey extension. This would not be incompatible with existing development.
19. The design of the new building in Appeal A, while a slightly different shaped roof to the existing, would be consistent with the overall height and the variation in roof design seen along this side of Harewood Avenue. To the rear, the main roof would extend further rearwards than properties to the west. However, both No. 156 adjacent to the appeal site and No 154 beyond have rear protruding hipped roofs. When viewed in this context, the design of the rear projection with a hipped roof is not out of keeping.
20. The design of the proposed building in Appeal B would result in a ridge height below the height of neighbouring properties. Consequently, it would appear incongruous and out of keeping with these and the wider appearance of the street scene.
21. My attention has been drawn to a recent appeal decision¹ for a similar development at 8 Branksome Dene Road, Bournemouth, BH4 8JW which was dismissed. However, in that case, the plot appears to be visually exposed and prominent, unlike the appeal site where it is set behind the existing grass verge and planted area. Furthermore, it appears that the subdivision would be prominent from the street as a new boundary treatment would be put in place to subdivide the garden which is not the case in this appeal. I do not therefore find this directly comparable with the schemes before me.
22. I conclude that the proposed development in Appeal A would not harm the character and appearance of the area with regard to the severance of the plot, the alterations to the front garden and boundary and the design of the proposed building. It would therefore accord with Policies CS6, CS21 and CS41 of the Core Strategy which together seek development that retains, enhances and respects local character and is well designed. It would also comply with the Council's Residential Extensions: A Design Guide for Householders (2008) and Residential Development: A Design Guide (2008) (the Design Guides) which together seek, amongst other things, development that is well designed that respects existing street patterns and layouts. It would also comply with

¹ APP/G1250/W/18/3200909

the design objectives of the National Planning Policy Framework (the Framework).

23. In respect of Appeal B, I conclude that the design of the proposed development would harm the character and appearance of the area. It would therefore conflict with Policies CS6, CS21 and CS41 of the Core Strategy as referred to above. I note the Council's decision notice additionally refers to Policy 6.8 of the Bournemouth District Wide Local Plan (2002) (the Local Plan) in respect of Appeal B. This policy relates to infill development and the need for it to respect character, the proposed development would therefore not comply with this policy. It would also conflict with the Design Guides and the Framework.

Dorset Heathlands

24. The site lies between 400m and 5km of the designated Dorset Heathlands SPA, Ramsar Site and Dorset Heaths SAC (the Dorset Heathlands). These are protected as European Sites of Nature Conservation Importance and are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63(5) imposes a duty on the competent authority, to consider whether any proposal may have a significant effect on such protected areas either alone, or in combination with other plans and projects. Following the Court of Justice of the European Union (CJEU) judgement² in April 2018 the decision maker, when considering the effect that a proposal may have on a European site, is required to consider mitigation within the framework of an Appropriate Assessment (AA) rather than at screening stage.
25. The Council has undertaken an AA and concluded that in the absence of avoidance and mitigation measures, the proposed development would have a likely significant effect on the integrity of the protected sites. I have had regard to this. However, as the competent authority, it falls to me to carry out an AA.
26. The Dorset Heathlands provide an important habitat to internationally important bird species (breeding Nightjar, Woodlark and Dartford Warbler, and wintering raptors such as merlin and hen harrier), all six species of native British reptiles, the southern damselfly and rare and regionally distinct invertebrates such as the Purbeck mason wasp, ladybird spider, heath tiger beetle and heath bee-fly. In addition, various rare plants including the Dorset heath are found there. The heaths themselves are fragmented and found throughout the built-up area around Bournemouth. There is evidence that public access from nearby development has led to an increase in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion; and that disturbance by humans and their pets amongst other factors have an adverse effect on the heathland ecology.
27. While the schemes would provide only one additional unit, due to their proximity to the Dorset Heathlands, there is a likelihood that future residents would wish to visit the area. While the number of additional visits arising from this development would be low, I have considered this additional pressure on the protected sites in combination with the impacts of other residents of other

² People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C;2018:244

schemes accessing the heathlands and I conclude that together there is the potential for a significant effect on the Dorset Heathlands to arise.

28. As part of my judgement, I must also consider whether any potential effect could be mitigated. The Council consider that the effects on the Dorset Heathlands can be managed and monitored and have an implementation plan to mitigate the impact of new housing development upon the Dorset Heathlands Special Protection Area. This is set out in the Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document 2016 (the SPD). This requires a financial contribution used to fund heathland mitigation in the form of Strategic Access Management and Monitoring (SAMM) and Heathland Infrastructure Projects (HIPs).
29. The Council has provided me with detailed evidence about the use of financial contributions and how these are funding the Urban Heaths Partnership Team in delivering a warden service, education, monitoring and a dog's project. I have also consulted Natural England who have confirmed that these financial contributions are sufficient to avoid an adverse impact to the integrity of the European sites. I am therefore satisfied that these measures could be adequate and effective in mitigating against any effects on the Dorset Heathlands and that it is reasonable for the appellant to contribute to these.
30. During the course of the appeals, the appellants have submitted a Unilateral Undertaking for each appeal which sets out that they will pay the financial contribution in accordance with the SPD. I am satisfied that this money would be used for mitigation. As a consequence, subject to this contribution, I am satisfied that the integrity of the Dorset Heathlands designated sites would not be adversely affected by the development.
31. I therefore conclude that the proposed development for both Appeal A and Appeal B would be in accordance with Policy CS33 of the Core Strategy which requires residential development to avoid or mitigate any adverse effects upon the heathland site's integrity.

Living conditions

32. In Appeal B, the proposed bin storage would be positioned within the rear gardens close to the rear patio doors. This would not provide a satisfactory arrangement as the bins in this position would be unsightly and could generate smells which would harm the living conditions of future occupiers of the houses. Furthermore, the arrangement is impractical as future occupiers would be required to move their bins along the relatively narrow side access to the front of the property for collection purposes. However, as I found previously there appears to be adequate space within the plot to accommodate bin storage, the details of which could be secured by a condition.
33. I therefore conclude that the proposed development would not harm the living conditions of future occupiers, with regard to the position of bins. It therefore would not conflict with Policies CS6, CS21 and CS41 of the Core Strategy and Policy 6.8 of the Local Plan which together seek appropriate design and layout and a high standard of amenity that meets the day-to-day requirements of occupants. It would also comply with the Design Guides which together seek development that provides a suitable standard of amenity for future occupiers. It would also accord with the Framework objectives of achieving well-designed places.

Other Matters

34. Local residents have raised concerns that the site would not provide sufficient parking as well as the increased traffic and disruption during building works, especially due to the proximity of the site to a roundabout and a local school. The highways authority has not objected to the scheme subject to the imposition of conditions. While I understand concerns about noise and disruption during construction works and the impact of this on nearby neighbours, this would be of a temporary nature and would not be a reason for me to dismiss the appeal.
35. Concerns have also been raised that the proposed houses would impact on the privacy of adjoining neighbours. However, as the development is entirely at ground floor it would not give rise to overlooking of adjoining properties.
36. My attention has been drawn to restrictive covenants on properties on Harewood Avenue. This is a private matter which falls outside of the scope of planning issues before me in this appeal. The impact of this development on property prices is also a private matter and not one that affects the planning merits of a case.
37. I note concerns that if allowed the proposal could set a precedent for other similar development in the area. However, each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission.

Conditions

38. The Council has proposed a number of conditions should the appeal be allowed in addition to those which I have already referred to earlier in my decision. In respect of Appeal A, I have considered these and imposed them where they meet the tests set out in Paragraph 55 of the Framework, amending where necessary for the sake of simplicity, clarity and precision.
39. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. In the interests of protecting neighbours from noise and disturbance during construction, a condition restricting the hours of construction work is necessary.
40. A condition requiring materials to be approved is necessary in the interests of the character and appearance of the development. For this reason and in the interests of highway safety, I have also imposed a condition requiring details of the forecourt layout including parking and landscaping and their retention. I have additionally imposed a requirement to provide details of hard surfacing materials to be approved to ensure satisfactory drainage is achieved on site.
41. A condition seeking the creation of a footway crossing in accordance with the approved plans and prior to occupation is necessary in the interests of highway safety. In the interests of promoting alternative modes of transport and to comply with Policy CS18 of the Core Strategy, a condition requiring details of cycle storage is necessary.
42. I have imposed a condition restricting permitted development rights to prevent the erection of any form of enclosure to the front forecourt, in the interests of the character of the street. I have not imposed conditions restricting permitted

development rights in respect of enlargements, windows and dormer windows to the houses as I have not been provided with sufficient evidence demonstrating that harms would arise from this that require me to impose this restriction.

Conclusion

43. I have found the proposed development harmful in Appeal B in terms of its impact on character and appearance but not in the case of Appeal A. In other respects, both appeals accord with the development plan. For this reason, I conclude that Appeal A should succeed, and planning permission should be granted, but Appeal B should be dismissed.

Rachael Pipkin
Inspector

Schedule of Conditions for Appeal A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless otherwise modified under the conditions below, the development hereby permitted shall be carried out in strict accordance with the following approved drawings: 1230/201 A, 1230/202 C, 1230/203 A and 1230/204 A.
- 3) All on-site working, including demolition, construction and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between 08:00 and 18:00 Monday to Friday, 08:00 and 13:00 on Saturday and not at any time on Sundays, Public or Bank Holidays unless otherwise agreed in writing by the local planning authority.
- 4) No construction of the external walls of the development shall commence until details of materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details.
- 5) Notwithstanding what is shown on drawing 1230/202 C, no dwelling shall be occupied until a) the layout of the forecourt, including parking and landscaping, and b) the materials to be used for all hard surfaced areas; have been provided in accordance with details that have first been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details and retained thereafter.
- 6) No dwelling shall be occupied until the widening of the kerb and footway at the access crossing of the highway on Harewood Avenue shall be constructed and surfaced to the specification and satisfaction of the local planning authority in accordance with the approved plans. The development shall be carried out only in accordance with the approved details and retained thereafter.
- 7) No dwelling shall be occupied until cycle storage has been provided in accordance with details that have first been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details and retained thereafter.
- 8) No dwelling shall be occupied until the bin storage has been provided in accordance with details that have first been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details and retained thereafter.
- 9) Notwithstanding the provisions of Class A under Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) there shall be no erection or construction of a gate, fence, wall or other means of enclosure or physical division to delineate separate areas of ownership within the grounds of the application site.

End of Schedule of Conditions for Appeal A