
Appeal Decision

Site visit made on 19 November 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Appeal Ref: APP/Q1255/W/19/3236018

Land rear of 140 and 142 Lake Road, Poole BH15 4LW

- 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 Barnstaple Boat Co. Ltd. against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref APP/19/00630/F, dated 21 May 2019, was refused by notice dated 15 July 2019.
 - The development proposed is a new build 2 bed bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address in the banner heading above is that used by the Council as it more correctly identifies the site, including the fact that it lies to the rear of dwellings in Lake Road, rather than Lake Drive. I note the appellant has entered a similar form of address on the appeal form, albeit with repeated incorrect reference to Lake Drive.

Main Issues

3. The main issues are the effects of the development on:
 - the character and appearance of the area, including a protected tree;
 - the living conditions of occupants of neighbouring dwellings, with regard to outlook and privacy, and the living conditions of future occupants of the development, with regard to provision of amenity space; and
 - whether the site is an appropriate location for residential development in relation to flood risk.

Reasons

Character and appearance

4. The site occupies space immediately to the rear of the back gardens of 140 and on 142 Lake Road, which are a semi-detached pair of single storey bungalows. As No 140 stands at the junction of Lake Road with Lake Avenue, its side elevation, back garden, and the site, are all clearly exposed to view within Lake Avenue. In this location, both on plan, and on the ground, the site appears to form part of the layout of back garden spaces to the rear of dwellings along

Lake Road. This impression is reinforced by the absence of development beyond these rear boundaries. Therefore, whilst the proposed bungalow would have its frontage on Lake Avenue, it would be primarily viewed in relation to existing development along Lake Road, and in particular No 140.

5. The height of the proposed ground floor would be considerably greater than that of No 140, despite the fact that the ground level between the two is itself reasonably level. The inconsistency would be made very noticeable by the relative positioning of windows within the elevations facing Lake Avenue, and further emphasised by their presence almost entirely above the height of established boundary treatments.
6. The form of the proposed bungalow would furthermore lack the simplicity and regularity of Nos 140 and 142, and indeed that of other dwellings within the broader setting. In this regard the roof would feature a substantial raised section whose height to the ridge would appear disproportionate to the frontage below, providing an awkward, top heavy appearance. The combination of this, with the raised and inconsistent levels would cause the development to appear both prominent and incongruous within the streetscene. The effect would not be alleviated in any way by the existence of 2-storey dwellings on the opposite side of Lake Avenue. This is because, aside from the fact that the development would share very little in common with these dwellings, it would not be viewed directly in relation to them.
7. A small group of trees which are subject of protection by a Tree Preservation Order, stand on land immediately adjacent to the site. These include a large oak tree whose canopy significantly overhangs the site. This oak tree makes a prominent and positive contribution to the appearance of the streetscene, which is particularly appreciable viewed from the east.
8. Given the proximity of the oak tree to the site, it is likely that the roots of the tree extend into it. Though I note that the appellant states that piles and a raft or ring beam would be employed in construction, I have not been provided with any construction details which demonstrate the feasibility of this, or indeed an arboricultural impact assessment which considers its effect. Consequently, I cannot be certain that the development would have a benign effect on the roots of the oak tree, or that the health and vitality of the tree would therefore be safeguarded. Loss or sickening of the tree would cause visual harm to the character of the streetscene.
9. Given the degree to which the oak tree overhangs the site, and particularly the small area of it which would form a patio space, it is reasonable to consider that considerable pressure to prune the tree would be generated by the development. Notwithstanding the fact that the tree is protected, such pressure would be hard to resist if the overhang gave rise to unacceptable living conditions. Given that it is likely that the overhang would be both oppressive and shading in its effect, it would indeed have an adverse effect on future occupants, particularly when attempting to use the patio space. Heavy pruning of the tree would greatly diminish the quality of the visual contribution it makes within the streetscene.
10. For the reasons outlined above I conclude that the development would have an unacceptable impact on the character and appearance of the area, which is likely to include harm to a protected tree. It would therefore conflict with Policy PP27 of the Poole Local Plan Adopted November 2018 (the Local Plan), which

amongst other things states that development will be permitted where it reflects or enhances local patterns of development and neighbouring buildings. Whilst the Council also cited Policy PP28 of the Local Plan in its decision notice, this relates to flatted development, plot severance and subdivision, none of which are applicable to the proposed development.

Living conditions

11. As noted above, the site immediately to the rear of the back gardens of Nos 140 and 142. Nos 140 and 142 are single storey bungalows, and the back gardens are compact in size. The gable end of the proposed dwelling would be constructed along the boundary with these gardens, and its ground floor level would be raised, exceeding that of both Nos 140 and 142. These points, in combination the broad width of the gable, the steep pitch of the roof, the resulting height of the ridge, and heavy massing of the roof, would cause the gable end to have a substantial physical and visual presence viewed from Nos 140 and 142. Given the compactness of the gardens and position on the boundary, this presence would be harmfully overbearing. It is likely that the adverse effects would be felt both within the dwellings and their gardens.
12. Reference is made within the submissions to the previous approval of garaging on the site. Whilst I have been provided with limited details, even if such garaging was of similar scale to the proposed bungalow, I note that the scheme did not involve the positioning of the gable end of a building on the boundary with Nos 140 and 142. In this regard a roof which sloped away from the boundary would have a more limited overbearing effect than would arise in relation to the appeal scheme. This previous permission does not therefore alter my view of the harm that would be caused to the outlook of occupants of Nos 140 and 142.
13. The raised floor level of the proposed bungalow would mean that the windows in the south elevation would be positioned above the height of the fence along the boundary with 144 Lake Road. Given the proximity of the proposed dwelling to the boundary, the outlook of bedroom one would be directly into and across the garden of No 144. Though the garden of No 144 currently contains various planting, this would not entirely screen the views that would exist. Even taking into account the normal pattern of bedroom use, the positioning of a window in the proposed location would give rise to an acute sense of perceived overlooking. Both actual and perceived overlooking would harm the privacy of the occupants of No 144. Lesser views would exist from the kitchen window, whose outlook would be more directly towards the side of a shed.
14. I see no potential to screen the bedroom window given that this would mean that occupants using the room would have little or no outlook. A similarly unacceptable effect would result from obscure glazing the window. Whilst relocating the kitchen window to the west elevation has also been suggested, this would not alleviate the harm caused by the positioning of the bedroom window. A window relocated to the south elevation would also suffer the effects of the overhanging tree considered above. No satisfactory solution therefore exists.
15. A 2-bed dwelling would most likely accommodate a single occupant, or couple. The appellant further suggests use by elderly people, albeit this would not be guaranteed. Each could potentially limit the amount of outdoor space required

to service a minimum range of basic needs. These might include sitting out and hanging washing. The extent to which either would be practical or desirable within the tight confines of very small patio space proposed, is however open to doubt, particularly given the heavy overhang of the adjacent oak tree, and the proximity of the parking space. Other small areas of planting and paving located at the front of the dwelling would not compensate for the small size of the patio, given that they would not serve the same function.

16. I note that the appellant states that the dwelling will be used as 'overspill accommodation' for visitors of residents of Moriconium Quay, and that such visitors could use facilities at Moriconium Quay instead. There is however no certainty that the dwelling would be permanently used in this way, or therefore that future occupants of the dwelling would not suffer the adverse effects of inadequate outdoor amenity space.
17. For the reasons outlined above I conclude that the development would have an unacceptable impact on the living conditions of occupants of both neighbouring dwellings, and future occupants of the development. It would therefore conflict with Policy PP27 of the Local Plan, which amongst other things states that development will be permitted provided that it would not result in a harmful impact upon amenity for both local residents and future occupiers, and provides satisfactory external amenity space for new occupiers.

Flooding

18. Whether or not the site has flooded in the past, it is located within future Flood Zone 3, as identified within the Poole Local Plan, Managing Flood Risk, Revised Strategic Flood Risk Assessment Levels 1 and 2, November 2017 (the SFRA). Presence of the site in future Flood Zone 3 means that a high probability of future flooding exists. Additionally, the site has been identified as being at risk of surface water flooding. Though, in view of the above, footnote 50 of the Framework requires production of a site-specific flood risk assessment in relation to the site, none has been provided.
19. In view of the above, paragraph 158 of the National Planning Policy Framework (the Framework) states that development should not be permitted if there are reasonably available sites appropriate for the proposed development at a lower risk of flooding (the sequential test).
20. In the absence of any evidence to the contrary, and insofar as the development involves the provision of a bungalow on a very compact site, it is reasonable to consider that scope exists for similar development elsewhere in the Council area on sites at lower risk of flooding. I nonetheless appreciate that the site is conveniently located in relation to Moriconium Quay. Given the intended use of the dwelling in relation to Moriconium Quay, this is clearly a key consideration of the appellant which might not be met on another site.
21. Even if I was to accept that this formed a basis for the sequential test being passed however, no evidence has been provided to demonstrate that the development would provide wider sustainability benefits to the community that would outweigh the flood risk. Indeed, in view of the harms I have identified in my reasons above, no such benefits are apparent. The appellant has also failed to demonstrate that the development would not increase flood risk elsewhere. Furthermore, though the ground floor would be raised above the anticipated future flood level, the area around the dwelling would still be subject to

flooding. In this regard access and escape for future occupants in the event of a future flood has also not be addressed. As such the scheme would fail the exception test set out in paragraph 160 of the Framework. Consequently, the Framework indicates that permission should be refused.

22. For the reasons outlined above I conclude that it has not been demonstrated that site is appropriate location for residential development in relation to flood risk. The development would therefore conflict with Policy PP38 of the Local Plan, which amongst other things states that developments which result in a net gain in residential units will only be permitted within the Council's future flood risk where the sequential test has been passed and the exception test met.

Other Matters

23. Planning permission was partly refused on the basis that the development would have an unmitigated significant effect on the integrity of the Dorset Heathlands Special Protection Area (SPA), and Ramsar site, and the Poole Harbour SPA, as a result of increased recreational pressure. This would be due to a failure to secure contributions in line with local guidance. No contribution has subsequently been secured within the context of the appeal. As I am dismissing the appeal for other reasons however, it is not necessary for me consider this matter in any further detail.
24. Notwithstanding its intended use, the development would provide an energy efficient addition to the local housing stock, with some minor associated economic benefits arising from construction, and use of local services by occupants. The benefits would however be very limited in scale, and clearly insufficient to outweigh the combined weight of harms identified in my reasons above.

Conclusion

25. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR