
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: 05 December 2019

Appeal Ref: APP/V1260/W/19/3235700
55 Chaddesley Glen, Poole BH13 7PB

- 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 John Spiers against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref APP/19/00575/F, dated 8 May 2019, was refused by notice dated 15 July 2019.
 - The development proposed is construction of two dwellings and associated garaging to rear.
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Decision

1. The appeal is allowed and planning permission is granted for construction of two dwellings and associated garaging to rear, at 55 Chaddesley Glen, Poole BH13 7PB, in accordance with the terms of the application ref APP/19/00575/F, dated 8 May 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matter

2. The appellant submitted revised plans with the appeal. These show lower ground levels towards the rear of the proposed garden of Plot 2 than was indicated on the original plans. The Council has stated that these plans should be rejected on the basis that they have not been subject to broader consultation. I have therefore considered whether the interests of any party would in fact be prejudiced if I was to accept the revised plans.
3. The higher ground level originally proposed played a role in the Council's objection to the scheme. It did not however draw comment from extant neighbours adjoining the site, upon whom an adverse effect was claimed. Given that the changes shown would, furthermore reduce the effects identified by the Council, I am satisfied that the interests of no party would be prejudiced by determining the appeal on the basis of the revised plans. I have therefore done so.

Main Issues

4. The main issues are the effects of the development on:
 - the character and appearance of the area; and,
 - the living conditions of occupants of neighbouring dwellings, and future occupants of proposed Plot 1, with regard to privacy, outlook and light.

Reasons

Character and appearance

5. The side of Chaddesley Glen on which the appeal site is located contains dwellings whose height, width, mass, and style varies considerably. Existing designs include flat or partially flat roofed contemporary forms such as 51 Chaddesley Glen, which neighbours the site on its southern side. Plot widths are inconsistent, and the gaps between dwellings are generally narrow. Some dwellings within the broader streetscene are indeed set very close together, presenting a reasonably dense frontage in some places.
6. The proposed width of Plot 2, as too that of the dwelling on it, would fall within the range of existing variation seen along the street. Plot 1 would be narrower than average in both regards. Set against existing variation, it is however unlikely that this would be particularly noticeable either in itself, or when viewed in combination with the proposed close spacing of the 2 dwellings to both one another, and to their neighbours. This is because the resulting frontage density would not appear exceptional within the broader streetscene. Viewed within its general setting therefore, the proposed plot width, building width and spacing would not cause the development to be perceived as either incongruous or cramped.
7. The heights of both proposed dwellings would modestly exceed that of 57 and 57a Chaddesley Glen, which neighbour the site on its northern side. This would be made only slightly more noticeable by differences in comparative massing related to differences in roof shape, given that these differences would appear somewhat insubstantial viewed from the street. Furthermore, as both proposed dwellings would be of lesser height than No 51 on the southern side of the site, and Plot 1 would in turn be of greater height than Plot 2, there would be a gradual stepping up, or, alternatively, stepping down of building heights across the frontage. As ground levels rise/fall perceptibly in the same directions, the building heights proposed would appear both well related to the topography of the street, and well related to those of neighbouring buildings, with whom they would form a sequence. This would assist in the visual integration of the scheme within the streetscene, and achieve a far higher level of integration than the existing dwelling on site. For these reasons the development would not appear atypically high, bulky or in any way 'dominant' relative to its setting.
8. The decision notice additionally states that the development would be 'contrived'. However, insofar as the proposed design responds to the unusual topography of the site, and reflects the split-level configuration of other buildings within the general setting, I see nothing inherently remarkable or harmful in the approach taken.
9. For the reasons outlined above I conclude that the effect of the development on the character and appearance of the area would be acceptable. It would therefore comply with Policy PP27 of the Poole Local Plan adopted 13 November 2018 (the Local Plan), which amongst other things seeks to secure development which reflects or enhances local patterns of development and neighbouring buildings; Policy PP28 of the Local Plan, which allows for plot subdivisions where the type, scale and layout of development including

parking and usable amenity space can be accommodated in a manner which would preserve or enhance the area's residential character; Policy PP2 of the Local Plan, which allows development outside the town, district and local centres provided the scheme is capable of delivering sustainable patterns of development; and relevant design-related provisions of the National Planning Policy Framework (the Framework).

Living conditions

10. The existing dwelling on the site extends much further back in the plot than its neighbour No 57. It also features a large projecting balcony to the rear whose position and somewhat ineffective screening allows clear views across the gardens of both No 57 and 57a. It is apparent therefore that the existing dwelling has a considerable negative impact on the privacy of occupants of both Nos 57 and 57a, and that, through overbearing, it also negatively impacts on the outlook of occupants at No 57.
11. The position of the proposed dwelling on Plot 2 would align reasonably well with No 57. Though the arrangement of the rear elevation would differ from that at No 57, in comparative terms this would have very little effect on the outlook of occupants of No 57. Indeed, the outlook of occupants at No 57 would be significantly improved in this regard. Any impact on privacy through overlooking from the proposed balconies would not in itself be new, and in this regard again, more effective screening would be provided than that which exists at present.
12. Levels fall towards the rear of the site. Whereas the garden of the existing dwelling, and that of No 57, largely follow the slope, the proposed development would instead incorporate terracing. This would result in an increase in ground levels both between the plots, and relative to No 57. As is outlined above, the extent of the increase has been reduced within the plans submitted as part of the appeal, and would be largely limited to the terraces positioned immediately to the rear of the proposed dwellings.
13. Considered in combination with boundary fencing, the difference in height between the garden of No 57 and the terrace of Plot 2 would be significant. The directness of any impact would however be well buffered by a ground-level walkway positioned between the garden boundary and the terrace. It would also be far less substantial than that which arises from the existing dwelling on site, notwithstanding the fact that the terrace would extend a little further back in the plot than the rear elevation and balcony of the existing dwelling. Also taking into account the fact that No 57 itself has an area of raised terracing to its rear, the development would not, on balance, cause any unacceptable harm to the outlook from the garden of No 57.
14. Due to the relative orientations of Plot 2 and No 57, proposed boundary treatments would be likely to cast some afternoon shade on the garden of No 57. It is however unlikely that this shading would be any greater than is currently cast by the dense and tall vegetation which fills the garden of the current dwelling, or by the current dwelling itself. Again therefore, no unacceptable harm would be caused.
15. Notwithstanding differences in ground levels, little scope for overlooking would exist between the gardens of the proposed dwelling and their neighbours as these views would be blocked by boundary treatments.

16. For the reasons outlined above I conclude that the effect of the development on the living conditions of both future occupants of the development, and of occupants of neighbouring dwellings, would be acceptable. It would therefore comply with Policy PP27 of the Local Plan, which amongst other things seeks to secure development that is compatible with surrounding uses and would not result in a harmful impact upon amenity for both local residents and future occupiers; and related provisions of the Framework which seek to secure a high standard of amenity. Though Policy PP28 of the Local Plan is also cited by the Council in relation to this matter, the part of the Policy relevant to the scheme does not cover matters of neighbour amenity.

Other Matters

17. Both considered alone and in combination with other plans and projects, the development would have a likely significant effect on the integrity of the Dorset Heathlands Special Protection Area (SPA), and the Dorset Heaths Special Area of Conservation, and Ramsar site, as a result of increased recreational pressure; and the Poole Harbour SPA, and Ramsar sites, both as a result of increased recreational pressure, and increased discharge of nutrients within waste water. These effects, and the need for mitigation, have been confirmed in relation to the qualifying features and conservation objectives of the European sites in question, within an Appropriate Assessment (AA) undertaken by the Council. Natural England (NE) has further confirmed that it raises no objection to the development subject to mitigation of these effects being secured in line with the Council's adopted strategic solutions. I am content to rely on the Council's AA, and NE's response for the purposes of this appeal.
18. The Council's approach to mitigation is set out in the Nitrogen Reduction in Poole Harbour Supplementary Planning Document (SPD) Adopted April 2017, The Dorset Heathlands Planning Framework 2015-2020 SPD Adopted January 2016, and the Poole Harbour Recreation Mitigation Interim Scheme Adopted January 2019. Mitigation would take the form of contributions towards infrastructure and site access management and monitoring measures funded through a combination of the Community Infrastructure Levy (CIL), and planning obligations.
19. Whilst the development would be liable to pay CIL, the failure to provide a planning obligation securing other required mitigatory contributions provided two reasons for refusal of planning permission. A Unilateral Undertaking (UU) securing these contributions has however been provided during the course of the appeal. The Council has confirmed that this addresses the related reasons for refusal, and I agree.
20. I find that the UU is necessary to secure mitigation directly relating to the development, and that the Council's adopted guidance provides a framework for such mitigation to be both fair and reasonable in scale and kind. As such the UU meets the tests set out paragraph 56 of the Framework, and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). I am furthermore satisfied that the UU allows me to reach a conclusion that the development would have no adverse effect on the integrity of the European sites identified.
21. Interested parties have requested that submissions made in relation to a previously refused scheme of development on the site be taken into account. However, whilst I have limited details of this scheme, the Council's submissions

indicate that its design was different to that currently under consideration. As such these previous comments do not form a basis upon which to assess the merits of the appeal scheme.

Conditions

22. I have imposed conditions setting out the time limit commencement of the development and specifying the approved plans, for sake of certainty. The Council has recommended a number of additional planning conditions which I have considered in the light of the advice contained within the Planning Practice Guidance (PPG). In allowing the appeal I shall impose conditions accordingly, improving precision where necessary, in accordance with the PPG.
23. Condition 3 requires the agreement of a scheme of hard and soft landscaping. This includes in relation to linked drainage considerations, thus avoiding the need for the separate condition requested by the Council. The condition is required in order to help ensure that the development integrates with its setting, that its hard surfaces drain, and, insofar as boundary treatments are covered, provides for the privacy of future occupants and neighbours. Required maintenance of the approved scheme over a period of 5 years will help to ensure that it becomes well established. I have not included reference to a barrier preventing access to the garage roofs, given that these would not stand at the same level as the adjacent gardens within the revised scheme.
24. Condition 4 requires agreement of the materials to be used for exterior of the 2 dwellings. This is necessary because only general details are provided on the plans. The condition is again required in order to ensure a satisfactory appearance for the development relative to its setting.
25. Condition 5 secures the provision of measures which enable 10% of future energy needs to be met by on-site renewables. This requirement is set out in Policy PP37 of the Local Plan, and allowed by the Planning and Energy Act 2008, and will help the development to achieve a high level of sustainability.
26. Condition 6 is imposed to require provision and retention of the proposed parking spaces. This is in order to ensure that the development caters for the parking demand which it will generate.
27. Condition 7 requires the provision of visibility splays either side of the vehicular accesses to the dwellings, in the interests of highways safety, and particularly that of pedestrians.
28. Condition 8 requires the installation of privacy screens prior to the first occupation of the dwellings. This in order to ensure that their installation takes place. It is unnecessary for the condition to specify the height of the screens, as this is shown on the plans. I have also not required that the screens meet the 'obscurity level' of products manufactured by a particular named company. In this regard I consider it sufficient to require that the screens are obscured to level which prevents views through them, and that this is necessary given that it is not otherwise annotated on the plans.
29. Condition 9 requires the installation of swift boxes, in line with the recommendations of NE, and Council policy. This is in order to ensure that the development helps to enhance biodiversity.

30. Condition 10 places a restriction on the future construction of extensions and erection of outbuildings. This curtailment of permitted development rights set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) is justified given that the combination of raised garden levels, small garden areas, and proximity of the dwellings both to one another, and to neighbours, means that either type of construction could have an adverse effect on land adjacent.
31. The Council has suggested a far broader restriction of permitted development rights, listing alteration, dormers, rooflights, terraces, roof gardens, balconies, doors and windows. However, I see little justification for this. Whilst a general restriction of 'alteration' is unreasonable, there appears to be little potential for dormers to be installed within the development. It is furthermore unclear why insertion of rooflights would be harmful, given that all the proposed roofs would be flat. Even taking into account the level of detail provided on the plans, it is doubtful that the flat roofs of the garages, or those of the dwellings, could be utilised as roof gardens, balconies or terraces without planning permission. Whilst little obvious harm would necessarily arise from addition of doors or windows to the garages, or at ground floor level in the proposed dwellings, in the event that windows were in fact to be inserted to the upper floors on the side elevations, these would be required to meet conditions set out in the GPDO safeguarding the privacy of neighbours. As such these restrictions are unnecessary.
32. I have not imposed a condition requiring the obscure glazing of windows in the side elevations of the dwellings, as this is already shown on the plans. The plans do not otherwise indicate that these windows would be openable, presumably as this would be unsafe given that most would involve glazing to floor level. It is therefore also unnecessary to impose further restrictions to the way in which the windows are fitted or hung. Again, the specification of a minimum obscurity level in line with that published by a specific manufacturer is not required. In this regard it is sufficient that the windows would be obscure glazed.
33. I have also not imposed a condition preventing letting of the garages, and their use as separate units of living accommodation. Whilst it is unclear why letting the garages would cause any harm, a material change in their approved use would require planning permission. Such a condition is again unnecessary.

Conclusion

34. For the reasons set out above, I conclude that the appeal should be allowed

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise modified by compliance with the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 1837 31; 1837 32A; 1837 33; 1837 34; 1837 35; 1837 36A; 1837 37; 1837 38; 1837 39; 1837 40A; 1837 41; 1837 42; 1837 43A.
- 3) A scheme of hard and soft landscaping in relation to the development hereby permitted, shall be submitted to, and approved in writing by the local planning authority. This scheme shall include:
 - a) details of materials to be used in the surfacing of access, driveway, parking and turning areas, including details of how surface water will be drained;
 - b) a scheme of planting; and
 - c) details of boundary treatments.

The scheme shall be carried out in accordance with the approved scheme, and completed before any part of the development is first occupied. Any plants, trees or hedging which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 4) Details and samples of all facing and roofing materials to be used in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to their installation.
- 5) Details of measures to provide 10% of the predicted future energy use of the development from on-site renewable sources, shall be submitted to and approved in writing by the local planning authority. These measures shall be implemented before any part of the development is first brought into use, and shall thereafter be retained.
- 6) The development hereby permitted shall not be brought into use until the access and parking spaces shown on the approved plans have been constructed, and made available for parking. The parking spaces shall thereafter be retained and kept available for parking at all times.
- 7) Prior to the first occupation of the development hereby permitted 2m x 2m visibility splays shall be provided either side of the front accesses, in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The splays shall thereafter be retained, and permanently kept free from obstructions over 0.6 metres above the level of the adjoining highway.
- 8) The privacy screens shown on the approved plans shall be obscured to a level sufficient to prevent views through them, and shall be installed prior to the first occupation of the dwellings hereby permitted. The privacy screens shall thereafter be retained.
- 9) Prior to the first occupation of the dwellings hereby permitted, 2 swift boxes or swift bricks shall be installed on their external elevations, in locations which

have first been submitted to and approved in writing by the Local Planning Authority. The swift boxes or swift bricks shall thereafter be retained.

- 10) Notwithstanding the provisions of Schedule 2, Part 1, Classes A and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or outbuildings shall be erected in relation to the dwellings hereby permitted, without the express planning permission of the local planning authority.