



Appeal Decision

Site visit made on 16 December 2019

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 13th January 2020

Appeal Ref: APP/V1260/W/19/3238857

16 Kirkham Avenue, Burton, Christchurch BH23 7LP

- 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 Jennings against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 8/19/0475/FUL, dated 14 February 2019, was refused by notice dated 10 April 2019.
 - The development proposed is described as plot severance and erection of new dwelling with associated access and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 1 April 2019 the three administrative areas of Bournemouth, Christchurch and Poole were formed into a single Unitary Local government district now known as BCP. The application was made to Christchurch Borough Council and determined by BCP. However, the policies in the decision notice remain in force for this appeal.
3. The appellants refer to amended plans which revise the layout on the ground floor and would incorporate additional space into the existing building. As these plans were not part of the submission considered by the Council, I cannot be sure that all those who may wish to comment on them have been afforded the opportunity to do so. Similarly, the floorspace involved would be materially larger even though the appellant argues that it would simply involve the infilling of ground floor walls flush with the existing first floor extension and would not, of itself, require planning permission. However, this is not a matter before me. The appeal process should not be used to progress alternatives to a scheme and regard should be had to the 'Wheatcroft' principles including whether amendments would materially alter the nature of the application. In this case I consider the amendments would make a significant change to the ground floor layout and I am mindful of the Council's objection to the inclusion of the amended plans. I therefore deal with the appeal based on the plans that the Council used to make their decision and not based on the inclusion of the amendments.

Main Issues

4. The main issues are the effect of the development on: a) the character and appearance of the area; b) the living conditions of the occupiers of No. 16 Kirkham Avenue (No.16); and c) the Dorset Heathlands Special Protection Area.

Reasons

5. The area around the appeal site is primarily residential, where the principle of residential development is not disputed by the Council. The Council granted permission for a rear first floor extension, open at the ground floor in 2012 which has been constructed. A further permission for a two-storey side extension and single storey rear extension was granted in January 2019¹. The appeal proposal has similar design and dimensions to the January 2019 permission though is proposed as an attached but separate unit of accommodation including dividing the garden. The existing access would appear to serve both properties though vehicles parked in the space to serve the new dwelling would appear to obstruct access for the existing dwelling.

Character and appearance

6. The area is characterised by short terraces with some uniformity of design following a generally tight knit pattern of housing on moderately sized plots with comparatively small gardens. This tight knit pattern emphasises the importance of undeveloped spaces between buildings which make a positive contribution towards the appearance of the area as they form breaks in the built environment.
7. The proposal would introduce an attached two storey dwelling on a plot formed from the side and part of the rear garden to No.16.
8. No.16 is currently a larger than average plot given the presence of land to the side and the appellants state that the proposal will be viewed as an extension of the existing terrace. Even so, the proposed dwelling would be two thirds the width of the existing dwelling and at 4 metres would be narrower than existing plots in the vicinity of the site and would represent a higher density than that found in the locality. The appellants argue that the proposed dwelling would have a site coverage of 28% whereas those in the surrounding area vary between 34% to 53% of the plot. However, with a building width the full extent of the site and a building depth of 14 metres compared to a garden depth of around 11 metres this indicates a plot coverage of more than double the figure quoted by the appellants.
9. The use of part of the existing garden and the whole of the previously approved extension as a separate house would result in a cramped arrangement with the frontage dominated by access and parking to the new property and obstructed provision for No.16. The access area is currently given over to soft landscaping and the loss of this would also adversely affect the appearance of the site.
10. Even though the new dwelling would be the same depth as the extended (attached) host dwelling it would be significantly deeper than the majority of the terraced dwellings in the vicinity. These features, coupled with the closeness of the dwelling to the rear and side boundaries and the factors

¹ 8/18/3144/HOU

outlined above, would result in a dwelling which would appear cramped on the site and which would be poorly related to its own boundaries and to the adjacent dwellings. As such an additional dwelling would not reflect the established pattern of development.

11. Taken together, the plot size, proposed plot coverage, scale, form and bulk of the proposal, the proximity of the proposed shared access to No.53 Chestnut Way and the activity which would be associated with a separate dwelling would cumulatively result in a development which would be out of place with the adjacent buildings. The proposal would result in an unsympathetic poor-quality form of development squeezed into the gap between existing buildings. It would result in a harmful effect on the character and appearance of the area, would fail to contribute positively, and would be out of keeping with and harmful to the prevailing character of the area.
12. For these reasons the development would conflict with Policies HE2, H12 and KS1 of the Christchurch and East Dorset Local Plan, Part 1 – Core Strategy, (2014) (Core Strategy) and to the aims of the National Planning Policy Framework (the Framework). These collectively seek to ensure that development is of a scale and character which respects the existing form of development, secures high quality design which recognises local distinctiveness, and which is compatible with or improves its surroundings.

Living conditions

13. The enlargement of the building to form an additional dwelling would exacerbate an already restricted outlook from the principal room in the ground floor accommodation of No.16 due to the rear living room window having its outlook underneath the rear first floor projection and further constrained by the enclosure albeit sited to the northern side of the covered decked area. This would result in an unacceptably dark and oppressive environment which would adversely affect the living conditions of the occupiers of No.16 and which would be to their detriment.
14. Consequently, the proposal would conflict with Policy HE2 of the Core Strategy and the aims of the Framework in so far as they relate to the protection of the amenity of the occupants of neighbouring properties and which seek to ensure that developments improves their surroundings and minimise disturbance to the amenity of nearby properties.
15. In reaching this view I have considered the comments made about the amended plans and note that the appellant has sought to address the Councils concern with regard to the living conditions of the occupants of No.16. However, as my decision relates to the plans upon which the Council made its decision, I have not evaluated amended plans as set out in my procedural matters.

Special Protection Area

16. The appeal site lies within 5km of Christchurch Harbour Site of Special Scientific Interest (SSSI), which forms part of the Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC) and Ramsar. Natural England has confirmed that the proposal would have, in combination with other plans and projects, a likely significant effect on these European and International wildlife sites, by reason of the increased

recreational pressure which additional residential development places on these sensitive areas.

17. The Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (2016) (SPD) which has been agreed by all local authorities in South East Dorset, sets out the detailed approach to the avoidance and mitigation of the adverse effects of development on the Dorset Heathlands. That SPD requires new residential developments located between 400m and 5km of the Dorset Heathlands to make a financial contribution towards mitigation measures, which are normally secured through the completion of a planning obligation. The appellant has indicated that a Unilateral Undertaking (UU) would be submitted to secure this contribution. No such planning obligation is before me and I must make a decision on the basis of its absence.
18. Accordingly, and in the absence of adequately secured mitigation measures, I am unable to complete the Appropriate Assessment required of me by the Habitats Regulation and cannot therefore be certain that the proposal would not prejudice the integrity of the Dorset Heathlands SPA. Consequently, the scheme would fail to accord with the Dorset Heathlands SPD and the Habitats Regulations. The consequence of this is that there would be conflict with Policies ME1 and ME2 of the Core Strategy though it is noted that neither of these policies, though provided in evidence, are referred to on the Council's decision notice.

Other Matters

19. The appellant refers to the Framework in relation to the effective use of land though this is not a brownfield site as defined by it. However, whilst the Framework refers to the effective use of land it caveats that this should also secure the improvement of the environment and seek to ensure healthy living conditions; neither of which I have found to be the case in this appeal.
20. The appellants highlight that Policy KS1 should apply to this proposal. They emphasise a presumption in favour of development where permission should be granted unless adverse impacts significantly and demonstrably outweigh the benefits. For the reasons given above I have found that there are adverse impacts which conflict with policies in the development plan such that would weigh against the development.
21. My attention has been drawn to examples in the local area where terraces of properties include building widths of around 4 metres and the existence of shorter terraces as illustrated by aerial images. The examples, whilst showing some plots of smaller width, do not represent the same type of proposal as the appeal scheme such that I would be bound to follow them. The example of No.32 Burnham Road is a corner plot which has a very different setting to the appeal proposal. For these reasons the examples do not alter my findings.

Conclusion

22. For the reasons given and having regard to all other matters raised the appeal is dismissed.

Janet Wilson

INSPECTOR