



Appeal Decision

Site visit made on 9 October 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2020

Appeal Ref: APP/V1260/W/19/3232481

36 The Broadway, Northbourne, Bournemouth BH10 7EZ

- 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 Same Holdings Limited against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2019-13507-C, dated 5 February 2019, was refused by notice dated 23 April 2019.
 - The development proposed is to demolish garage and create new dwelling, with associated parking.
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Decision

1. The appeal is allowed and planning permission is granted to demolish garage and create new dwelling, with associated parking at 36 The Broadway, Northbourne, Bournemouth BH10 7EZ in accordance with the terms of the application Ref 7-2019-13507-C, dated 5 February 2019, subject to the following conditions:
 1. The development hereby approved shall begin not later than 3 years from the date of this decision.
 2. Subject to the requirements of any other conditions attached to this permission, the development hereby approved shall be carried out in accordance with the following approved plans and drawings: Block and location plan: 1396P/101; Proposed site plan:1396P/100A; Proposed Floor Plan: 1396P/104 and Proposed elevations:1396P/105.
 3. Prior to the commencement of the development hereby approved, details of all external facing and roofing materials shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be undertaken in accordance with the approved details.
 4. Notwithstanding details shown on submitted plans, prior to the commencement of the development hereby approved, details of all boundary treatments for the application site shall be submitted to and approved in writing by the local planning authority. Details shall include a plan showing: the positions, height, design, materials and specification of all fencing, walls and hedge planting. The approved boundary treatment scheme shall be implemented prior to occupation of the dwelling hereby approved and permanently retained and maintained.
 5. Prior to the commencement of the development hereby approved, a drainage scheme for the disposal of surface water run-off and incorporating

sustainable urban drainage systems (SUDS) for the new dwelling, shall be submitted to and approved in writing by the local planning authority. The drainage scheme shall be completed in accordance with the approved details prior to occupation of the development hereby approved.

6. Prior to the commencement of development hereby approved, details of the specification (a typical cross section of the surfacing) of the parking areas shall be submitted to and approved in writing by the local planning authority. The parking areas shall be constructed and laid out in accordance with the approved details prior to the new dwelling being occupied and shall be permanently retained and kept available for the residents of the development hereby approved.
7. Prior to the commencement of the development hereby approved, details with specifications of the widening and lowering of the kerb and footway at the access crossing of the highway at Russel Road shall be submitted to and approved in writing by the local planning authority. The kerb and footway areas shall be constructed and surfaced in accordance with the approved details prior to the occupation of the new dwelling hereby approved.
8. Prior to any works above ground level commencing, a scheme with details of finished floor levels, and hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be implemented in accordance with the approved details prior to occupation of the new dwelling hereby approved.
9. Notwithstanding details shown on submitted plans, 2m x 2m pedestrian inter-visibility splays shall be provided to the east of the parking area fronting the proposed dwelling and to the east and west of the parking area allocated to the existing dwelling, in accordance with a scheme to be submitted to and approved in writing by the local planning authority prior to the occupation of the new dwelling. No fence, wall or other obstruction to visibility over 0.6m in height above ground level shall be erected within the area of the splay.
10. All on-site working, including demolition and deliveries to and from the site, associated with the implementation of the development hereby approved shall only be carried out between the hours of 8am and 6pm Monday - Friday, 8am and 1pm Saturday and not at all on Sunday, Public and Bank Holidays.

Preliminary Matters

2. The appellant submitted an amended site plan and an additional drawing with the appeal. The amended site plan (1396P/100A) is intended to supersede the site plan submitted with the application (1396P/100) and shows revisions and additional details to the proposed boundary treatments. The additional drawing shows the amended proposal as part of a streetscene. In relation to these the Council states that the appeal is not an appropriate mechanism for post-decision discussion.
3. Matters relating to boundary treatments did play a role in the Council's objection to the scheme. This did not however draw comment from neighbours adjoining the site. Given that the changes shown are to address the Council's concerns and the Council has also suggested a condition requiring details of

boundary treatments, I am satisfied that the interests of no party would be prejudiced¹ by determining the appeal in light of the amended plan and additional drawing.

4. Pursuant to Section 106 of the Town and Country Planning Act 1990, the appellant has submitted a signed and dated unilateral planning obligation (Unilateral Undertaking) at the appeal stage. This includes a covenant for a financial contribution of £355 index linked plus administrative fee of £75 towards the Dorset Heathlands Mitigation Strategic Access Management and Monitoring (SAMM). I shall return to this matter later in my decision.

Main Issues

5. The main issues are the effects of the proposed development on: i) the character and appearance of the area; ii) the living conditions of the occupiers of No 36 and future occupants of the proposed dwelling in respect of amenity space; and, iii) the integrity of the Dorset Heathlands Special Protection Area, Dorset Heaths Special Area of Conservation, and Dorset Heathlands Ramsar sites (the Dorset Heathlands).

Reasons

Character and appearance

6. The appeal site No 36 is an extended bungalow located on a corner plot at the junction of The Broadway and Russel Road. It forms part of a wider residential area, characterised by a range of property designs and styles, including bungalows, two storey and terraced properties. In particular, along Russel Road the spacing between dwellings and plot sizes vary. Frontages to dwellings are also different and include those that are open and others which are entirely or partly enclosed by vegetation, walls/fences or a combination of these, in a range of heights, including boundary treatments about 1.5m tall at No 36 and nearby. Cumulatively, these factors contribute to a diverse character and appearance.
7. To facilitate the proposed development the plot to No 36 would be sub-divided and approximately one-third of its rear portion, which is largely occupied by outbuildings and a parking area, would be utilised for the new bungalow.
8. As a consequence of the proposed layout the plot to No 36 would be reduced. Notwithstanding this, because of retained land to the front, side and rear of the bungalow it would occupy a sizeable plot with a spacious setting. Although, the new dwelling would occupy a smaller plot and is to be located close to its rear boundary with its amenity space to the side, this arrangement broadly replicates an infill bungalow, directly opposite the appeal site at 2 Russel Road (No 2) and another bungalow at 44 Russel Road.
9. Furthermore, the new dwelling would face Russel Road, broadly along the established building line. Its single-storey scale and design would be consistent with neighbouring properties. The proposed dwelling would also be afforded an appreciable degree of separation from the rear boundary of No 36. While there would be a lesser gap of about 1m from the common boundary with 3 Russel Road (No 3), the overall separation between these buildings, combined with

¹ Having regard to the principles established in *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

the difference in ridge heights and hipped roof forms, would produce a discernible degree of space around the buildings.

10. The sub-division of the plot, creation of the private amenity spaces and parking areas require alterations to existing boundary treatments along with the provision of new ones. Nevertheless, a sizeable section of the boundary treatment along the side of No 36, in the form of a picket fence and tall hedge would be retained. Along with this a combination of low wall and hedge planting is proposed to the frontage of the new dwelling. This type of boundary treatment, subject to securing full details by condition, would not be out of keeping with the streetscene. The use of taller fencing between the amenity areas, set-back from the road is also not uncommon in the area.
11. Drawing on the above reasons, I conclude that the proposed development would assimilate with the varied pattern of development along Russel Road and would not harm the character and appearance of the area. I therefore find no conflict with the design aims of Policies CS21 and CS41 of the CS and saved Policies 4.25 and 6.8 of the LP, which amongst other matters seek to ensure that development is of high quality and, through scale, character, appearance, is designed to respect the site and its surroundings, including planting and landscaping.

Living conditions

12. The retained garden area to the rear of No 36 would be accessible from the dwelling, enclosed, reasonably private and large enough to accommodate a shed for storage, while also retaining sufficient space for seating and other activities. In addition to this, land to the side of No 36 which is partly screened could also be utilised as amenity space.
13. The amenity space for the proposed dwelling would also be directly accessible from its main living areas and is of a sufficient size for activities associated with a modest two-bed dwelling. However, based on the submitted details I cannot be certain that the front wall could be constructed as shown on the amended plan² without effecting the existing hedge. Also, limited information is provided in relation to the height and specification of the new hedge planting. Nevertheless, having already found the broad arrangements of these boundary treatments to be compatible with the area, I am satisfied that subject to requiring full details by condition, an enclosed and private amenity area for the proposed dwelling can be secured.
14. Consequently, the proposed amenity space arrangements would not adversely impact on the living conditions of the residents of No 36 or future occupants of the proposed dwelling. Therefore, the amenity space arrangements accord with the broad aims for the design of garden space as set out in the Council's Design Guide³, and Policies CS21 and CS41 of the CS and saved Policies 4.25 and 6.8 of the LP, which do not permit development proposals that would be detrimental to amenity.

The Dorset Heathlands

15. The site is situated between 400 metres and 5km of the Dorset Heathlands. In combination with other residential development in the area, development

² 1396P/100A

³ Paragraph 3.7.5 of the Residential Development-A Design Guide, Adopted September 2018

would be likely to have a significant effect on these sites, and without mitigation it could not be ascertained that the integrity of the sites would not be adversely affected.

16. CS Policy CS33 states that development will not be permitted unless it can be ascertained that the development will not lead to an adverse effect on the integrity, directly or indirectly, of the Dorset Heaths international designations. The Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (SPD) provides further detail, setting out the Council's approach to the mitigation of harmful effects on the designated sites. It requires all new residential development between 400 metres to 5km of the protected heathlands to be subject to a financial contribution towards mitigation measures in order to avoid adverse effects on the integrity of the designated sites.
17. Financial contributions for mitigation measures are secured through legal agreements and the Community Infrastructure Levy (CIL), the latter of which cover necessary Heathland Infrastructure Projects (HIPs) and are utilised as set out in the Dorset Heathlands Planning Framework SPD and as evidenced in annual monitoring and delivery reports. The submitted Unilateral Undertaking seeks to secure the required financial contribution for SAMM to mitigate the development's effect on the designated sites.
18. I have also consulted Natural England who confirm that in respect of delivery of both elements (SAMM and HIPs) the Council has been delivering the necessary measures since 2007 and it has full confidence in this respect that the mitigation will be delivered. From the evidence before me, I am satisfied that the financial contributions arising from the Unilateral Undertaking and the CIL would provide sufficient mitigation and that the mitigation would be secured and implemented in a proper and timely manner.
19. Based on the foregoing, I am able to ascertain, as the competent authority undertaking Appropriate Assessment, that the integrity of the Dorset Heathlands designated sites would not be adversely affected by the development. Consequently, I find that the proposal would accord with CS Policy CS33 and would be consistent with the provisions of the Dorset Heathlands Planning Framework SPD.

Other Matters

20. Although the proposed dwelling includes a side facing window along its western elevation, due to the existing intervening boundary treatment, such an arrangement would safeguard against any loss of privacy or overlooking.

Conditions

21. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. In addition to the standard timescale condition, I have included a condition specifying the relevant drawings and plans as this provides certainty. The details of floor levels, soft and hard landscaping and proposed materials are important to ensure the satisfactory appearance of the development. Details of boundary treatments are necessary to safeguard the appearance of the area and the living conditions of existing and future occupants of the development.

22. The submitted drainage scheme failed to meet the Council's requirements, it is therefore necessary to secure a further scheme in the interests of achieving satisfactory drainage for the new dwelling. Conditions relating to highway works, visibility splays and the provision of parking areas are required in the interests of highway safety. A condition controlling on-site working is necessary in the interests of the living conditions of neighbours.
23. On the available information, I am not certain that a condition relating to the storage and collection arrangements for waste/recycling is necessary or enforceable. There is also no clear evidence that tree protection is necessary to safeguard an existing street tree along Russel Road. Having regard to the PPG⁴ no exceptional circumstances have been demonstrated for conditions removing permitted development rights in respect of roof alterations and the enlargement of the to the proposed dwelling. Therefore, such conditions do not meet the necessity test.
24. Conditions 3, 4, 5, 6 and 7 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance and the modest scale of the proposal.

Conclusion

25. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal
INSPECTOR

⁴ Paragraph: 017 Reference ID: 21a-017-20140306