
Appeal Decision

Site visit made on 9 March 2020

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2020

Appeal Ref: APP/V1260/W/19/3242987

43 Western Road, Poole BH13 6EP

- 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 Avante (Western Road) Ltd against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref APP/19/00252/F, dated 27 February 2019, was refused by notice dated 25 October 2019.
 - The development proposed is the demolition of the existing dwelling and construction of three detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of the application the proposal was amended to the construction of one detached dwelling. This is the basis for my considerations below.

Main Issues

3. The appeal site lies within 5km of the Dorset Heathlands Special Protection Area (SPA), the Dorset Heaths Special Area of Conservation and Ramsar site, and the Poole Harbour SPA and Ramsar site. The Council has undertaken an appropriate assessment identifying likely significant effects which would arise from the proposed development, concluding that the measures necessary to prevent the adverse effects may be secured through a legal agreement and the payment of the Community Infrastructure Levy.
 4. The appellant has submitted a unilateral undertaking which would secure the financial contributions to strategic access management and monitoring sought by the Council, who has withdrawn the reasons for refusal in this regard. I have no reason to disagree with that position. Therefore, the main issues are:
 - the effect of the proposed development on the character and appearance of the Branksome Park Conservation Area; and
 - its effect on the health of retained trees, with particular regard to protected tree, T103.
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Reasons

The Branksome Park Conservation Area (CA)

5. The Council's appraisal¹ describes the significance of the CA as its spacious, sylvan character derived from its division into large building plots in the C19 by the Bury family who imposed covenants on their sale to influence the low density, heavily wooded area which distinguishes it today from its more urban surroundings. This section is notable for the generous plot sizes of the houses, and the large wooded or landscaped areas which characterise its low density pattern of development. It identifies that to the rear of 10 and 12 Burton Road is a red brick garden wall with a balustrade over arched recesses, which it describes as of architectural or historic interest and which adds to the character of the area.
6. The proposed house would retain the wooded character in this section, nestling sympathetically down into what was a sunken garden, its limited second storey sensitive to the skyline and canopy line of the trees surrounding it. I appreciate that both the tall, Victorian garden wall, and the sunken garden with its lower wall and pond, retain a connection to the origins of the CA and The Wick. They have evidential, historical and illustrative value to the landscape tradition of the era in which the CA developed. However, the sunken garden and low wall appear severed from the original house and gardens which diminishes its value now as a landscape device. In any event, I can identify no harm from the development to the tall wall, which is referred to in the appraisal as adding to the character of the area.
7. Notwithstanding these factors, aside from the shared driveway to the development, which appears not to be a characteristic form of access in the CA, the plot size of the proposed house would be far smaller than the plots in this section, its footprint:plot ratio substantially greater, and the space between the house and its front and back boundaries significantly less. The proposed backland form of development, where the frontage of the house would face towards the back garden of another rather than directly to the street, would also be at odds with the surrounding pattern of development. Further, the proximity of the proposed house to the house at 15 Dover Road would be more akin to the siting of some of the housing outside the CA than the distinctive pattern of development within it, where the grain of houses is wide, and where the houses tend to be separated by larger areas of landscape or trees.
8. The development would undermine the finely balanced spatial character of the CA, in particular, its spacious layout of houses and the distinctive features of their arrangement, harming its parkland landscape character and diminishing the significance of the CA as a whole. While policy PP2 of the Poole Local Plan 2018 (LP) which concerns the broad location of development is of less relevance here, the proposed development would nonetheless conflict with LP policies PP27, PP28 and PP30. These expect development to preserve or enhance the architectural significance of heritage assets, and permit development provided it reflects or enhances an area's residential character and local pattern of development including in terms of layout, siting, and site coverage.

¹ Branksome Park Conservation Area Character Appraisal and Management Plan, Supplementary Planning Guidance 2006, Borough of Poole

9. The appellant has drawn my attention to recent planning permissions in the area. First, the house at 12a Western Avenue, granted planning permission on appeal² had only one storey above ground, with a substantially smaller footprint than this proposal, and it had a frontage facing directly towards the street in a plot already subdivided into 3, in an area of the CA identified as a knot of built form in the angle between two roads. As I have done in this appeal, the Inspector in that case concluded that it is the relationship of the built form to the parkland landscape that gives the CA its distinctive character and appearance. He found the limited harm by reason of built form being in place of a tennis court was outweighed by the public benefits derived from the quality of the building in adding to the character and appearance of the CA. In this proposal, I have identified development pattern harm from the uncharacteristic backland siting and proximity to neighbouring houses, as well as spatial harm from the development undermining the deeper, hinterland character of the parkland context in this section.
10. The second permission, at 2 Western Avenue, concerned a plot wider than the plots on the Canford Cliffs Road side. Its subdivided width was consistent with the plot widths on that side. Though the depth of its plot was relatively short, the footprint:plot ratio of the development allowed at appeal³ appears more consistent with its neighbours, and the resulting depth of plot of the retained house is not unlike those of the houses close-by. It also has a frontage facing towards the street rather than to the back of another house, as in this proposal. The effect on the spatial character and layout of the CA in that development is quite different to the proposal in this case.
11. I acknowledge the appellant's reference to planning permissions granted by the Council at 2 Burton Road/22 Balcombe Road to split the house and then to subdivide the plot with a house behind. However, the Council's report described that part of the CA as being uncharacteristic of the whole CA in terms of plot size, plot shape and the siting of houses, with an uncharacteristically small dwelling within a small plot already adjacent to the application site. Furthermore Nos 10 and 12 Burton Road, further along, were set towards the rear of their plots with No 12 having a narrower plot between the front of the dwelling and the road.
12. I have taken into account that the siting of the house proposed in this appeal would give it little visibility in views from the street. However, it would not be invisible. The house and its access, and its harm to the significance of the CA would be apparent to the occupiers of surrounding houses. In any event, the test in s72(1) of the Act is not whether any harm caused by the development would be visible, but whether the development would preserve or enhance the character or appearance of the CA.
13. I acknowledge the limited number of developments which the appellant suggests depart from the prevailing character of the CA. However, I have distinguished their peculiar circumstances and their particular designs from the proposal on this site, which presently makes an important contribution to the architectural and landscape significance of the CA as a whole, to the desirability of the preservation of whose character I am required to pay special attention, and against which test this proposal fails.

² Appeal Ref: APP/Q1255/W/15/3138244

³ Appeal Ref: APP/Q1255/W/17/3183246

14. Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Although the degree of harm here would be less than substantial, this does not equate to a less than substantial planning objection, especially where the statutory test is not met.
15. Paragraph 196 of the Framework advises that harm should be weighed against the public benefits of the proposal. The provision of an additional home would bring social and economic public benefits from its construction and from the spending of future occupiers in the local economy. However, these public benefits would not outweigh the harm to the CA identified above.
16. I conclude that the proposed development would fail to preserve the character of the CA. It would fail to satisfy the requirements of the Act, paragraph 192 of the Framework and it would conflict with the development plan policies described above.

The health of retained trees

17. While the Council accepts that the driveway in the proposal could be built and used without harm to the retained trees, it is concerned that the proposed building would be so close to the off-site tree T103 that there would be a risk of pressure to significantly prune it, both to allow the construction of the house, and to maintain the amenity of its future occupiers.
18. The appellant has described the overriding character of Branksome Park as its sylvan setting and the dominance of tall, mature trees over built form. I agree that the sympathetic relationship between buildings and the landscape in the CA, in particular the land shape and the setting of trees and space around the buildings make a significant contribution to the character of the CA. Tree T103 is a 16m high category 'B' Beech tree, with at least 20 years remaining of its very substantial contribution to visual amenity and to biodiversity.
19. The tree plan indicates the corner of the proposed house passing very marginally into the root protection area (RPA) of T103. However, given the clearance over the remainder of its RPA, there is no evidence that groundworks would prejudice its health. The quoin of the ground floor of the building would align with the canopy of the tree, but the height of the ground storey and the level of the canopy, from what I could see, suggest that subject to a planning condition for details of temporary and protection works at this corner, there would be no conflict during construction, even allowing for the erection of scaffolding and its striking.
20. The first floor of the house would be set well back from the canopy of the tree. The tree stands to the north of the first floor terrace and would be screened by the first floor bedroom, which would be lit by openings to the south and west. The ground floor accommodation facing the tree would be utility spaces, with few openings towards the tree. The general arrangement of the house provides outlooks to the south and west aspects of the garden. In these circumstances, the tree would not reduce the daylight or sunlight or outlook of the spaces within the house or in its gardens. Fallen leaves may need clearing from the garden of the proposed dwelling, but given the number of trees overhanging the gardens and driveway, this does not present a significant risk

to trees which are protected by Order or by their location in the CA. Moreover, substantial pruning would reduce the seclusion of the future occupiers of the house and bring little return in light or outlook.

21. Given the siting of the house and the levels of the site and house in relation to surrounding trees, in particular protected Beech tree T103, I find that there would be no material risk from construction or from the pressure of future occupiers for significant pruning which would adversely affect its health or amenity value. There would be no conflict with LP policy PP27 which requires development to respond to natural features and not to result in the loss of trees which make a significant contribution, either individually or cumulatively, to the character of the area.

Conclusion

22. I have found that the proposed development would have no ill-effect on the health of retained trees. It would provide an additional home which is a social benefit that attracts modest weight. It would bring economic benefits from its construction, and from the spending of future occupiers in the local economy. However, these benefits would not outweigh the harm it would cause to the character of the CA, contrary to the clear expectations of the Act, its conflict with the development plan as a whole, and with the advice in the Framework. I have not found any other material considerations of sufficient weight to overcome the harm identified. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR