



Appeal Decision

Site visit made on 2 June 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 17 July 2020

Appeal Ref: APP/V1260/W/19/3242651

39 Western Avenue, Poole BH13 7AN

- 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 Keith Mallinson against the decision of Bournemouth Poole and Christchurch Council.
 - The application Ref APP/19/01166/F, dated 6 September 2019, was refused by notice dated 8 November 2019.
 - The development proposed is to demolish existing single storey side extension to 39 Western Avenue, sever land and erect a 3 bedroom detached house with parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant's Arboricultural consultant indicates the removal of various Cypress in the southeast corner of the site. However, his planning agent has indicated that these would be retained and the appeal proposal has been considered on this basis. There has been a recent dismissed appeal for a dwelling at 43 Western Road but the appeal proposal before me has been considered on its particular planning merits.

Main Issues

3. The main issues are the effect of the proposal on (a) the character and appearance of the area, having regard to whether it would preserve or enhance the character or the appearance of the Branksome Park Conservation Area and the setting of Church of All Saints, a listed building, and (b) the integrity of the Poole Harbour Special Protection Area (PHSPA) and Dorset Heathlands Special Protection Area (DHSPA).

Reasons

Character and appearance

4. The appeal site comprises a detached 2 storey dwelling with a single storey side extension. It is located on a corner plot at the junction of Western Avenue and Western Road. There are mature protected trees, shrubs and tall fences/walls around the perimeter of the site. There are off-road parking spaces to the front of the existing dwelling, with additional parking provision within an integral garage. The dwelling, other than in the vicinity of its gated

entrance, is screened from the highway by boundary vegetation. The site is located within the Branksome Park Conservation Area and near a Grade II Listed building – the Church of All Saints on Western Road.

5. The Branksome Park Conservation Area Character Appraisal and Management Plan (CAMP) 2006 identifies that the area was subdivided into large plots in the 19th century. It states that the area exhibits a character that is distinct from the surrounding urban landscape, being noticeably lower in density and heavily wooded, such that it is clearly identifiable as a defined area. Furthermore, it identifies that trees and vegetation dominate the streetscape, often forming a visual backdrop to dwellings, with buildings appearing to be set in woodland clearings. Often buildings are only glimpsed from the road such that they play a secondary role in complementing but not competing with their natural setting.
6. Such findings support my site observations that the Conservation Area is generally characterised by large detached dwellings set in spacious and well landscaped/wooded plots. It is these architectural, aesthetic and historic qualities that make the Conservation Area distinctive and of significance and value, and are of special interest to it as a whole. The appeal plot is laid out as lawn, bounded by significant vegetation and trees. As such, it has spacious and verdant qualities which positively contribute to the character and appearance of the Conservation Area.
7. The new dwelling would be of a contemporary design which would utilise an existing access serving the existing dwelling. However, the proposed subdivision of an existing large curtilage would result in a new dwelling plot which would be significantly smaller than the prevailing pattern of development within this part of the Conservation Area. It would be comparable to the plot size of the dwelling at 25 Western Avenue but this is the exception to the prevailing sizes within the vicinity of the site. Recently subdivided plots at 12A Western Avenue and 2 Western Avenue are sited a significant distance from the appeal site and thus do not form part of the immediate context within which the appeal site is located within. For all these reasons, the plot would appear markedly at odds with those nearby.
8. The plot's small size would be further emphasised by the significant hardstanding, including parking areas, at the entrance into the plot, and the impression of the dwelling being hemmed in by significant boundary vegetation, including trees. In particular, the dwelling would be abutting the canopies of trees to the rear and a further tree to the side. The dwelling's single storey nature, with its low profile and small size would also be an uncharacteristic form of development within the area where substantial dwellings predominate.
9. The setback of the new dwelling in line with the host dwelling would result in two similarly positioned dwellings relative to Western Avenue. Despite its separation from the existing dwelling and contrasting design, this would give rise to a regimented feel to the plot. Indeed, such siting would be out of kilter with other dwellings within the Conservation Area which have a variety of setback distances and informal layouts. As with any new development, there would also be increased activity in and around the dwelling, and necessary domestic paraphernalia, for instance parked vehicles, bins, sheds, etc. As shown in the street elevation plan, the top of the dwelling would also be visible

from Western Avenue despite the screened nature of boundary vegetation. Such layout and design features would result in a visible impression of a cramped development.

10. The two dwellings at 12A Western Avenue and 2 Western Avenue were allowed at appeal. Not only are these dwellings not in the immediate vicinity of the appeal site but the context of these sites is different. At 12A Western Avenue, there is a knot of development around the junction of Western Avenue and Bury Road, including backland development. Plot sizes here are also generally smaller than in the vicinity of the proposal before me. At 2 Western Avenue, the development is opposite similarly sized plots and a regimented street pattern which are not characteristics prevailing in the vicinity of the site. Thus, there are material differences between these developments and the appeal proposal.
11. My attention has been drawn to the granting of planning permission for dwellings in Burton Road and Balcombe Road. The resulting densities of these developments equate with that of the appeal proposal. However, density is not the only measure to judge character and appearance. Furthermore, these developments would not be in the direct vicinity of the appeal site and in any case, they are in a more varied character and appearance area, given the mixed plot sizes and sitings of dwellings. Accordingly, there are material differences between these developments and the proposal before me.
12. There are other dwellings at corner locations at Martello Road, Western Road, Bury Road and Mornish Road. However, every proposal is inevitably different in its nature and context and in any case, every proposal has to be considered on its particular planning merits. In this case, the failure to respect the spacious and sylvan qualities of the Conservation Area would arise from not only the plot size but also the extent of hard surfacing, the dwelling's siting, its noticeable single storey form and low profile, and enclosure and proximity to substantial vegetation and trees. For these reasons, the development would have the appearance of being squeezed in.
13. Turning to the site's trees, an Arboricultural Method Statement and Tree Protection Plan shows that the root protection areas of trees would not be harmed. However, the canopies of the trees along the rear boundary and to the side of the dwelling would cover significant garden areas of the new dwelling. There is also substantial sized vegetation, including evergreen, along and within the two road boundaries of the site. Having inspected the vegetation and trees, and taking into account those to be retained, much of the garden would be dominated by landscaping and overshadowed. As a result, there would be pressure to undertake detrimental works to trees and vegetation which contribute to the character and appearance of the area.
14. The Council would retain formal control over requests for tree works to the protected trees but in practice I consider that it is likely to be difficult to resist such pressure in the long term for the reasons given above if the dwelling were to be built. I appreciate that the existing and future occupiers should be aware of the landscaping when deciding to purchase these properties and deciding for themselves whether the presence of them would be a problem. However, circumstances can change, especially when people live in a property, and therefore, this would not prevent requests from future occupiers. The removal

- or significant pruning of trees and vegetation would unduly compromise the sylvan setting and character and appearance of the Conservation Area.
15. At 12A Western Avenue, tree branches overhang the dwelling and the Inspector was satisfied that controls existed to prevent harmful tree works. However, every scheme will differ in its nature. From my site visit, the development at No 12A has more openness, especially the frontage, due to vegetation canopies being less dense at ground level. Furthermore, the development was for a two bedroom dwelling rather than a 3 bedroom dwelling which would result in greater person occupation and demands for useful outdoor living space. It also replaced an existing tennis court area. Accordingly, there are material differences between this other development and the proposal before me.
 16. The National Planning Policy Framework (the Framework) makes clear, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
 17. In accordance with the Framework, the type of harm identified above would be less than substantial. It is necessary that this identified harm is weighed against the public benefits of the proposal. In this regard, the proposal would boost housing supply providing a dwelling for existing and future generations. It would result in development of a windfall site, the benefit of which the Framework places great weight upon. The dwelling would be sustainably constructed and used. However, the benefits would be diminished by reason of the proposal being small-scale relating to an existing single dwelling. Windfall sites also must be suitable for development. They also have to be weighed against the adverse impact on the significance of the Conservation Area for which considerable importance and weight is attached. Thus, the harm to the significance of the Conservation Area would outweigh the scheme's benefits.
 18. There is also a long view from the southern end of Western Avenue to All Saints Church which contributes significantly to an open setting of this local landmark. As a result of the generous setbacks of the existing dwellings from Western Avenue the listed church is afforded an open setting, which the CAMP places great importance upon. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. However, the development's form, size and siting would ensure no impact on the setting. Whilst the development would result in a built form closer to the church, there would still be significant separation formed by part of the garden of the new dwelling and the highway.
 19. In summary, there would be no harm to the setting of the listed building but the development would fail to preserve the character and appearance of the Conservation Area as a whole for all the reasons indicated. Accordingly, the proposal would be contrary to policies PP27, PP28 and PP30 of the Poole Local Plan (LP) (2018). LP policy PP02 is not relevant due to its strategic nature.

Special Protection Areas

20. The DHSPA and PHSPA would be attractive to future residents for recreation by reason of accessibility. The DHSPA holds important populations of three bird species that nest on or close to the ground whilst the PHSPA hold important populations of wintering shorebirds. Urbanisation has potential for significant adverse effects on the interest features of the SPAs. Even small-scale recreational pressure can result in adverse disturbance to these bird's survival.
21. On this basis, the proposal would have a significant effect, either alone or in combination with other developments, through its urbanising effect, on the SPAs. The nature conservation objectives of the SPAs include maintaining favourable conditions for the populations of these birds protected under Annex 1 of the Birds Directive. Having excluded the consideration of any mitigation measures, it cannot be ascertained that the proposal would not adversely affect the integrity of the designated sites.
22. The Council's Dorset Heathland Planning Framework sets out reduction and avoidance measures for the heathland SPA. It indicates contribution requirements for Suitable Alternative Natural Green Spaces (SANGS) and strategic access management and monitoring (SAMM) mitigation measures which will be paid prior to development commencing. The required SAMM contribution will be used to employ wardens to patrol the SPA, for educating the public about the SPA and to monitor the on-going effectiveness of the Council's approach. The Council has also indicated a SAMM for PHSPA.
23. SANGS contributions would be payable under the Council's Community Infrastructure Levy. The appellant has indicated willingness to pay the SAMM contributions for both SPAs. However, there is no obligation or other form of arrangement before me to secure the contribution. Planning Policy Guidance (PPG) encourages parties to finalise planning obligations in a timely manner and emphasises the importance of this in the interests of transparency. My decision has to be based on the documentation before me and in this regard, no mitigation has been put forward. In terms of the Habitat Regulations, no alternative solutions have been put forward that would have a lesser effect, or avoid an adverse effect, on the integrity of the SPA, and nor do I consider any possible based on the nature of the proposal and the appeal documentation.
24. Priority species would be adversely affected by the proposal and there are no imperative reasons of overriding public interest for such a small-scale proposal. On this basis, the development would adversely affect the integrity of the SPA alone or in combination with other projects coming forward. For all these reasons, the proposal would conflict with policies PP32 and PP39 of the LP.

Conclusion

25. The proposal would harm the character and appearance of the Conservation Area and the integrity of SPAs in conflict with policies of the LP and the development plan taken as a whole. There are no considerations to outweigh that finding. For all the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR