
Appeal Decisions

Site visit made on 20 July 2020

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 7 August 2020

Appeal A: Ref: APP/V1260/W/20/3244760

Appeal B: Ref: APP/V1260/W/20/3244763

1 & 3 Methuen Close, Bournemouth, BH8 8NA

- Both appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant planning permission.
 - Both appeals are made by Academy Developments (Bournemouth) Ltd against the decisions of Bournemouth, Christchurch and Poole Council.
 - For Appeal A, the application Ref 7-2019-23427-C, dated 14 May 2019, was refused by notice dated 16 July 2019.
 - The development proposed is rear extension to form new dwelling with alterations to existing flat.
 - For Appeal B, the application Ref 7-2019-23427-D, dated 14 August 2019, was refused by notice dated 8 October 2019.
 - The development proposed is rear extension to form new studio dwelling with alterations to existing flat.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for a rear extension to form a new studio dwelling with alterations to an existing flat at 1 & 3 Methuen Close, Bournemouth, BH8 8NA, in accordance with the terms of the application Ref 7-2019-23427-D, dated 14 August 2019, subject to the conditions set out in the attached Schedule.

Procedural matters

3. In the case of both appeals, the application forms only referred to the site in question as "1 Methuen Close". However, the red-edged area for each application embraced both 1 and 3 Methuen Close (semi-detached properties), and both appeal forms referred to the respective appeal sites as "1 & 3 Methuen Close". This seems to me to accurately reflect the sites shown on the respective submitted plans, and in the banner heading above I have therefore detailed the appeal site in each case as being 1 & 3 Methuen Close.

Main issues

4. For both Appeal A and Appeal B the main issues are:
 - whether the layout and design of the proposed development would provide acceptable living conditions for existing and future occupiers, with particular reference to amenity space, privacy and outlook; and
 - the effect of the proposed development on existing trees on and adjoining the appeal site.

Reasons

5. As noted above, in both cases the appeal site comprises the 2 semi-detached properties Nos 1 and 3 Methuen Close, together with the front and rear amenity areas associated with these properties, which are currently occupied as Houses in Multiple Occupation. The properties lie adjacent to a turning head at the end of a short cul-de-sac, with the dual-carriageway Wessex Way passing close by the western end of the cul-de-sac, separated from it by a brick wall with trees beyond.
6. No 1 comprises 6 bedsits and under the Appeal A proposal an existing single-storey rear extension would be demolished and a new single-storey, hipped roof extension would be added to the rear to form a further unit of residential accommodation. This would contain a kitchen/dining room, a lounge, a bedroom and a separate bathroom. Under the Appeal B proposal the existing rear extension at No 1 would also be demolished, but in this case it would be replaced by a slightly smaller single-storey, hipped roof rear extension comprising a studio flat.
7. There is no physical boundary separating the rear garden area of No 1 from that serving No 3, such that the whole area appears to be available for use by occupiers of both of these properties. The area itself is predominantly laid to rough grass, with some hard surfacing close to the rear elevations of the dwellings, and with a small wooden shed towards the north-eastern corner.
8. For both proposals, 3 car parking spaces would be provided within the front garden area of Nos 1 and 3, whilst pedestrian access to the proposed new residential unit would be provided adjacent to the site's south-eastern boundary.

Layout, design and effect on living conditions

9. For each of these cases the Council contends that the proposed development would comprise a cramped and congested form of development of what it describes as a small plot. Furthermore, in its Joint Appeal Statement of Case it maintains that in both cases the proposals would result in the loss of almost one third of the existing rear garden area serving these properties. However, the appellant disputes this figure, arguing that the Appeal A proposal would see a loss of just some 19% of the garden area, with a lower figure of about 15% being lost through the Appeal B proposal. My own assessment, based on the submitted plans, leads me to place more weight on the appellant's figures.
10. From evidence submitted by the appellant, and from observations of the surrounding area made at my site visit, it is clear that there are many flatted developments and similar in this area having limited amounts of amenity space. But there is no firm evidence before me to suggest that these existing developments should be considered unacceptable in this regard. With these points in mind I consider that the remaining garden area, if either proposal was to proceed, would be reasonably spacious and acceptable. Moreover, windows in the proposed dwelling units would face onto this communal area and the boundary fencing and vegetation beyond, such that, contrary to the views of the Council, I do not consider that the outlook from these windows would be objectionable.
11. Furthermore, although the Council also argues that the 3 parking spaces proposed for the front of Nos 1 and 3 would further highlight the cramped nature of the proposals, and dominate the outlook for front ground floor residents, I saw that other properties in Methuen Close also have parking to their fronts, close to the highway and close to windows. In these circumstances I am not persuaded that

either of the appeal proposals would result in an unacceptably cramped form of development, uncharacteristic of this area.

12. However, although I consider that the proposed parking arrangements, outlook, and the amount of communal amenity space which would result from these proposals would be acceptable, I do have some concerns about the likely privacy of future residents, especially insofar as the Appeal A proposal is concerned.
13. The residential unit proposed through Appeal A would have 2 lounge windows adjacent to the path to the communal amenity area, which would have to be passed by anyone wishing to access this area from No 1's side. This new unit would also have 2 large glazed doors from the lounge opening onto the communal area, and 2 bedroom windows would also look directly onto this communal area. It seems to me that in these circumstances the privacy of occupiers of this new unit could be unacceptably impacted by other residents using the communal amenity area and passing along the new path, potentially in very close proximity to bedroom and living area windows and glazed doors.
14. This differs from the existing situation where the window serving the living area of the existing ground floor rear bed-sit at No 1 is effectively distanced from the communal area by the existing single-storey extension, which provides some shielding and protection. This single-storey extension itself, only has obscure-glazed windows facing the rear garden area, and is therefore unlikely to cause privacy concerns for the current occupiers of this bed-sit.
15. A somewhat similar situation would arise with the Appeal B proposal, and there would be some potential for poor levels of privacy for future occupiers, mainly with regard to the proximity of the proposed living area's glazed doors to the communal amenity area. However, the size of this communal area would be a little larger than with the Appeal A proposal, and this studio unit would have no north-westerly facing windows, thereby limiting the likely loss of privacy in respect of anyone sitting out on the hard-surfaced area to the rear of No 3, or using the western part of the amenity area. In addition, the studio unit would have no windows to living areas facing directly on to the path alongside the unit.
16. With these points in mind, I consider there to be sufficient difference between the 2 proposals for me to conclude, on balance, that occupiers of the studio unit would not suffer from an unacceptable loss of privacy.
17. In summary therefore, I conclude that whilst the Appeal A proposal would not provide acceptable levels of privacy for future occupiers, the Appeal B proposal would be acceptable in this regard. The Appeal A proposal would therefore not accord with Policy CS6 of the Bournemouth Local Plan Core Strategy (CS), adopted in 2012 which, amongst other matters, requires good design principles to be applied to new buildings and how spaces are treated. It would also be at odds with CS Policies CS21 and CS41, along with Policy 6.8 of the Bournemouth District Wide Local Plan (DWLP), all of which, amongst other things, require new development to be of good design and provide a high standard of amenity for future occupiers.

Effect on trees

18. One of the Council's reasons for refusal alleges that the proposals fail to take account of existing trees on and adjacent to the site, but neither the decision notices nor the Officers' Delegated Reports add any real substance to this point. The Delegated Report for the Appeal B proposal does acknowledge that the

appellant has submitted an Arboricultural Report, an Impact Assessment and a full Method Statement, but goes on to comment that the Council's Tree Officer has suggested amendments which have not been pursued as the Council intended refusing the proposal on matters of principle.

19. However, it is clear from the submitted evidence that the Council's Tree Officer considered the Arboricultural Method Statement to be acceptable in principle, with the only apparent concerns being the fact that Root Protection Areas and Ground Protection Areas are not specifically shown in the Method Statement. Such matters could be addressed by the imposition of an appropriate condition, if planning permission was to be granted.
20. That said, it is clear from the submitted plans that the only tree likely to be potentially affected by the appeal proposals is T1, a young silver birch located outside the appeal site, close to the site's south-eastern boundary. The Arboricultural Report states that the footprint of the proposed extension falls outside the root protection area of this tree, and also highlights that there is an existing concrete slab foundation where the proposed extension would be built. As such, the Report considers that no tree protection is required, and there is no firm, contrary evidence before me to cause me to take a different view.
21. With these points in mind I conclude that neither proposal would have an unacceptable impact on trees on or adjacent to the appeal site. I therefore find no material conflict with the aforementioned CS Policies CS21 and CS41, nor with DWLP Policy 4.25 which deals specifically with development proposals which could affect trees. Moreover, although the Council has cited its Residential Development Design Guide in this reason for refusal, it has not referred to any specific part of it, and as far as I can see neither proposal would be at odds with this guidance in respect of trees, subject to the imposition of appropriate conditions.

Other matters

22. The Council refused both proposals for essentially the same 4 reasons, 3 of which have been covered by the main issues set out above. In addition, permission was refused because the appeal site lies within 5km of a designated Dorset Heathlands Special Protection Area (SPA) and Ramsar site, and part of the Dorset Heaths candidate Special Area of Conservation (SAC). As such, the Council's Delegated Reports explain that the determination for any application for an additional dwelling or dwellings, resulting in increased population and domestic animals, should be undertaken with regard to the requirements of the Habitat Regulations.
23. The Council has accepted that any adverse effect on the integrity the SPA, SAC and Ramsar site could be satisfactorily addressed by financial contributions which would be put towards appropriate mitigation measures, but at the time of the Council's decisions, no such financial contributions had been put forward, and this led to a fourth reason for refusal in each case. However, more recent information from the Council now indicates that subsequent to the refusal of planning permission the appellant has submitted signed and completed unilateral undertakings, made under section 106 of the Town and Country Planning Act 1990 (as amended), which has satisfied the Council's concerns in this regard. I see no reason to take a contrary view on these matters, and therefore consider that the proposed developments would not result in any unacceptable impact on the aforementioned sites.
24. On a separate matter, I have noted the appellant's submissions regarding housing land supply, and further note that this matter has not been addressed by the

Council. However, on the basis of the information put forward by the appellant it seems to me to be questionable whether the Council is currently able to demonstrate a 5-year supply of deliverable housing land, as is required by the National Planning Policy Framework (the Framework) and explained further in the Planning Practice Guidance. But notwithstanding this matter, even if the tilted balance set out in paragraph 11(d)(ii) of the Framework were to apply in this case, I consider that the adverse impacts on the living conditions of future occupiers, in the case of the Appeal A proposal, would significantly and demonstrably outweigh any benefits likely to arise from the construction of one small dwelling.

25. I have also noted the Council's contention that each of these proposals represents a retrograde step from a recently granted planning permission for new dormers at No 1 and the re-ordering of the property to provide 4 self-contained flats from the current 6 smaller units, with parking provided in the rear garden and landscaping to the front of the property. However, I am not required to make comparisons between the appeal proposals and any other proposal – with or without planning permission – but simply have to assess the appeal proposals on their own merits. Having done so, as detailed above, I find that the Appeal A proposal is not acceptable, but that the Appeal B proposal would be acceptable, subject to the imposition of a number of conditions.
26. Some suggested conditions have been set out in the Council's Joint Statement of Case, and further conditions have been referred to by the parties in their respective submissions. In addition to the usual condition specifying the time constraints on the permission, I shall also impose a condition requiring the development to be carried out in accordance with the approved plans (subject to the requirements of other imposed conditions), in order to provide certainty.
27. A condition requiring the prior approval of external materials is needed to ensure a satisfactory visual relationship between the existing and the new development. Conditions are also necessary to ensure that trees on and adjacent to the site are protected during construction and to ensure satisfactory landscaping of the development, so as to safeguard the appearance of the area. In the interests of highway safety I shall also impose conditions requiring details of the proposed parking area and extensions to the existing vehicle crossover to be agreed with the Council. In addition, although a cycle store is shown on the submitted plans, it is appropriate to impose a condition to require details of this store to be agreed with the Council, in the interests of promoting cycling.
28. To address concerns raised by the Council's Waste and Recycling Officer, I shall impose a condition requiring the capacity of the on-site bin storage area to be enlarged. Finally, to address matters raised by the Council's Environmental Health Team I shall impose a condition requiring a detailed acoustic report relating to the proposed development to be submitted.

Conclusion

29. For the reasons set out above, and having had regard to all other matters raised, I dismiss Appeal A, but allow Appeal B, subject to the 11 conditions set out in the attached Schedule.

David Wildsmith

INSPECTOR

Schedule of conditions relating to the Appeal B proposal (11 in total)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawings, numbered 4348:11 and 4348:12.
- 3) Notwithstanding Condition 2, details/samples of the bricks and tiles to be used on the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any above ground superstructure works on site. Development shall be carried out in accordance with the approved details.
- 4) No site clearance or development work shall commence until an arboricultural method statement and detailed drawings have been submitted to and approved in writing by the Local Planning Authority, showing:
 - (a) the specification and position of fencing and other measures such as temporary surfacing, for the protection of the roots and crown spread of trees, groups of trees and other vegetation to be retained on and adjoining the site. Protective fencing should accord with the recommendations of BS 5837:2012 "Trees in relation to design, demolition and construction – Recommendations";
 - (b) the programme for the erection and maintenance of protective fencing and the installation of any other protective measures; such programme will include details of supervision by an arboriculturist;
 - (c) details of any proposed alterations in existing ground levels and of the position of any proposed excavation and constructional details of any drainage, hard surfacing, foundations, walls and similar works within the protected area;
 - (d) details of contractors' compounds and areas for storage; and
 - (e) schedule of proposed tree works.

The details contained in the arboricultural method statement shall be thereafter implemented on site and the protective fencing and other protective measures shall be maintained during the course of construction.

- 5) Within 2 months of the date of commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, and notwithstanding Condition 2, full details of landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The details should include, where appropriate, planting plans; schedule of plants; implementation timetable; surfacing materials; and boundary treatments. The approved landscaping scheme shall be implemented in full prior to occupation or use of the development commencing and permanently retained unless otherwise agreed in writing by the Local Planning Authority.
- 6) Within 2 months of the date of commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, full details of a landscape maintenance plan for a minimum period of 5 years shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the arrangements for its implementation. The landscape management plan shall be carried out in accordance with the approved details.

- 7) Notwithstanding Condition 2, the development hereby permitted shall not be occupied until the proposed parking area has been constructed and laid out in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The parking area shall be permanently retained and kept available for residents and visitors of 1 & 3 Methuen Close at all times.
- 8) The development hereby permitted shall not be occupied until the existing vehicle crossover to No 1 Methuen Close has been widened in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.
- 9) Notwithstanding Condition 2, the development hereby permitted shall not be occupied until details of a secure, fully enclosed cycle store has been submitted to and approved in writing by the Local Planning Authority. The construction/provision of the store shall be carried out in accordance with the agreed details and completed prior to occupation of the development hereby permitted. The cycle store shall thereafter be retained, maintained and kept available for the occupants of the proposed residential unit at all times.
- 10) Notwithstanding Condition 2, the development hereby permitted shall not be occupied until an enlarged waste bin storage area capable of holding 5 x 1280 litre bins has been provided, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The enlarged bin storage area shall be permanently retained thereafter.
- 11) Notwithstanding Condition 2, the development hereby permitted shall not commence until a detailed acoustic report on the existing noise climate at the development site has been submitted to and approved in writing by the Local Planning Authority. The report shall include a scheme of noise insulation measures for the new residential accommodation, designed to achieve noise insulation to a standard that nuisance will not be caused to the occupiers of the residential accommodation by traffic noise from the Wessex Way. The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 4142: 2014 "Method of rating industrial noise affecting mixed residential and industrial areas" and BS 8233: 2014 "Sound Insulation and Noise Insulation for Buildings - Code of Practice". The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

END OF SCHEDULE