
Appeal Decisions

Site visit made on 28 July 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 07 August 2020

Appeal A: APP/V1260/W/20/3250655

2 Seliot Close, Poole BH15 2HQ

- 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 AJ Developments against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref APP/19/01034/F, dated 8 August 2019, was refused by notice dated 11 October 2019.
 - The development proposed is described as demolish existing buildings and erect 7 no 1 bedroom flats with parking, bin and cycle storage.
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Appeal B: APP/V1260/W/20/3250677

2 Seliot Close, Poole BH15 2HQ

- 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 AJ Developments against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref APP/19/01568/F, dated 18 December 2019, was refused by notice dated 27 March 2020.
 - The development proposed is described as demolish existing buildings and erect 4 no 1 bedroom flats and 2 no 2 bedroom flats with parking, bin and cycle storage. Total 6 flats.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. As set out above there are 2 appeals on the site, each relating to construction of a block of flats. The proposals differ in terms of design and the amount of accommodation provided. I have considered each proposal on its individual merits, however, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The appellant submitted revised plans with Appeal B. The plans show an alternative parking layout, with reduced on-site parking, the addition of a dormer, high-level windows, and obscure glazing. I acknowledge the Council's objection to these plans being accepted, and have further considered whether the interests of any party would be prejudiced if I did so. In this regard the alternative parking layout is much the same as that within Appeal A, and upon which detailed comments have been made. Use of obscure glazing could itself

ordinarily be required by condition, and has been proposed in relation to Appeal A without any amended plans being submitted.

5. The additional windows are however a new feature, entailing changes beyond the ordinary scope of a condition. Notwithstanding the publicity required in the context of the appeal, I have been provided with little assurance that interested parties are aware of these changes and have had a proper opportunity to consider or comment on them. I cannot therefore be sure that their interests would not be prejudiced were I to determine Appeal B on the basis of the amended plans. Though I have nonetheless taken into account scope to add obscure glazing and to alter the parking layout, my decision relating to Appeal B is made on the basis of the plans upon which the Council determined the application.

Main Issues

6. The main issue are the effects of the developments on:

- the character and appearance of the area;
- the living conditions of occupants of 4 Seliot Close with regard to privacy, and, in relation to Appeal A, outlook;
- the living conditions of future occupants of the developments with regard to outlook and light, and, in relation to Appeal A, outdoor amenity space; and
- in relation to Appeal A, the safe and efficient use of the highways.

Reasons

Character and appearance

7. The site occupies a corner plot at the junction of Seliot Close with Fernside Road. The majority of dwellings fronting Fernside Road stand at 2-storeys. These include 148-150 Fernside Road directly adjacent to the site, and 156 Fernside Road on the opposite side of the junction. The dwelling currently on the site is a single storey bungalow. This is not consistent with the prevailing pattern along Fernside Road, but nonetheless forms one of a group within Seliot Close, including No 4 next door. Seliot Close otherwise contains a mix of bungalows and 2-storey dwellings of generally much more modest scale than those fronting Fernside Road.
8. The design of the building subject of Appeal B was considered acceptable by the Council. It would indeed fit the general pattern along Fernside Road, without significantly undermining that within Seliot Close.
9. The building subject of Appeal A would differ. Viewed face on from Fernside Road its general dimensions would not appear at odds with those of other buildings within the street. Given its location at a junction however, it would not be viewed solely in this way. Indeed, viewed in 3-dimensions, its scale, footprint, orientation and considerable overall bulk would not directly complement Nos 148-150 or No 156, or reflect the broader pattern along Fernside Road. Moreover, as its broad main frontage would face directly onto Seliot Close, it would be viewed and perceived primarily as a component of the streetscene within Seliot Close, rather than Fernside Road. In this context the considerable scale and massing of the building would appear wholly at odds with that of the established mix of bungalows and modest 2-storey dwellings

which characterise the street. Notwithstanding scope for variation within the streetscene, the proposed building would relate poorly to its developed setting within both streets, and would for this reason appear incongruous.

10. Both proposals would entail laying a hard-surfaced car park of similar size, but this was only given as a specific reason for refusal in relation to Appeal B. In this regard the current lawn space on the Fernside Road frontage of the site is something of an exception, as most other frontages in the immediate vicinity are largely, if not wholly hard surfaced for parking. The presumed loss of green garden space this has entailed has no doubt changed the character of the streetscene, and where soft landscaping is absent, the resulting spaces sometimes have a sterile appearance. In this context the continued presence of a soft landscaped space at the site, including the young tree it contains, is a modestly positive feature within the streetscene.
11. Almost all the current soft landscaping would be lost. However, the resulting hard surfaced parking space provided would nevertheless generally accord with the prevailing character and use of front garden space in the immediate vicinity of the site along Fernside Road. Given that scope would additionally exist to enclose a large part of the frontage with hedging, the parking area would be less exposed to view than those in most other locations. This would ensure that it would not have an overly dominant appearance. Though sufficient space would not be available to plant a replacement tree of similar size to that currently present, the introduction of hedging would ensure that soft landscaping within the site would continue to make a positive visual contribution within the streetscene. For these reasons no unacceptable harm would be caused to the character and appearance of the area by hard landscaping. There is therefore no need to consider scope for an alternative layout.
12. For the reasons outlined above I conclude that the development subject of Appeal A would have an unacceptable impact on the character and appearance of the area, whereas the impact of the development subject of Appeal B would be acceptable. The Appeal A scheme would thus conflict with Policy PP27 of the Poole Local Plan 2018 (the LP), which amongst other things requires development to reflect or enhance local patterns of development and neighbouring buildings; and Policy PP28 of the LP which similarly requires that the scale and massing of flatted developments is in keeping with neighbouring buildings and the established pattern; whereas, in these particular regards, the Appeal B scheme would be compliant. Appeal B would likewise comply with provisions within Policy PP28 of the LP which requires that car parking within flatted schemes does not dominate the site.

Living conditions: occupants of No 4

13. The garden of No 4 lies between it and the boundary with the appeal site. It is small in area and shallow in depth. Though No 4 appears to stand at a slightly higher level than the appeal site, given its modest size there would still be a significant difference in scale and massing between No 4 and the buildings proposed in Appeals A and B.
14. The Council did not consider that unacceptable overbearing of No 4 would arise in relation to Appeal B. The proposed building would indeed be similar in terms of its plot position and massing to Nos 148-150, and set a reasonable distance from the boundary.

15. The building subject of Appeal A would however be positioned much closer to the boundary with No 4, and, as a result of increased proximity, overbearing would be greater. In this case little justification can be drawn from the established pattern of development given the poor level of integration that the proposed design would achieve. The resulting adverse effect on the outlook of occupants of No 4 would not be mitigated by shrubs growing along the boundary, as these would not fully screen the building. The harm caused in this case would be unacceptable.
16. First floor windows within both of the proposed buildings would face towards No 4. In the absence of detailed sections, I have been provided with little indication of the exact angle or field of potential view. However, except in relation to the window serving Flat 5 in Appeal A, whose small size and location would provide an inherently restricted view, it is likely that views from the first floor windows towards the dwelling and garden at No 4 would be possible in both cases.
17. Given their greater proximity to the boundary, views from the 2 windows serving Flat 4 in Appeal A would be more extensive than the 2 windows serving Flat 4 in Appeal B, but equally direct. The effect would be accentuated in relation to Appeal A by unacceptable overbearing.
18. In both cases inter-visibility would be partly filtered, at least on a seasonal basis, by shrubs growing inside the garden of No 4. It is unclear what scope exists for this screening to be bolstered by planting within the site itself, particularly in relation to Appeal B. None has in any case been proposed. The shrubs alone would not adequately mitigate the identified effects.
19. I note that oblique overlooking of adjoining garden spaces is an established feature of development within Fernside Road, and that in this context some oblique overlooking of No 4 by Nos 148-150 could currently arise in the absence of vegetation. This would however be far less intense than the overlooking which would occur in relation to either of the appeal schemes. Direct overlooking of bungalows by 2-storey dwellings would not otherwise appear typical within the surrounding townscape. Thus, on the basis of the evidence before me, and particularly in view of the small size and depth of the garden space at No 4, the harm caused to its occupants by loss of privacy would be unacceptable in both cases.
20. As a solution the appellant has proposed to fix the lower panels of the first floor windows in question shut, and to install obscure glazing. This would certainly prevent overlooking. It would however also severely limit the outlook for future occupants of the flats affected. In consequence, Flat 4 in Appeal A, and Flat 4 in Appeal B would each as a whole be served by only one window with a clear outlook. In both cases this would serve the main living space. The outlook from the bedroom in Flat 4, Appeal A, and from both bedrooms in Flat 4, Appeal B, would be solely through the narrow top section of the window described as being 'above eye level'. Whilst the outlook from a bedroom may be less important than the outlook from a window serving a main living space, the effect of obscure glazing as described would in each case be both unpleasant and oppressive. It would therefore be inappropriate to impose a condition requiring the windows in question to be fixed shut and obscure glazed. Thus, overlooking of No 4 could not be prevented in this way.

21. For the reasons outlined above I conclude that the developments subject of both Appeals A and B would cause unacceptable harm to the living conditions of occupants of No 4 due to loss of privacy, and, additionally in relation to Appeal A, outlook. In these regards both schemes would conflict with Policy PP27 of the LP which, amongst other things, requires development to not have a harmful impact upon the amenity of local residents.

Living conditions: future occupants

22. Flat 7 in Appeal A would be located in the roof and would have no windows other than roof lights set at a relatively high level. This would presumably be in order to prevent overlooking of neighbouring properties. Given their exposure I see no reason to believe that these rooflights would not provide high levels of natural light to the interior. It is nonetheless likely that for most adults, and particularly those of modest stature, the outlook from the flat would be limited to that of the sky. The effect would be unacceptably oppressive. I note the appellant's suggestion that one of the rooflights could be lowered to below 'eye level' through imposition of a condition. However, even if I was to agree that such an approach was appropriate in the absence of any consultation with parties who might be affected by such a change, the outlook from the flat would remain extremely limited, and for that reason inadequate.
23. Flats 5 and 6 in Appeal B would also be located in the roof. Again, in both cases I see no reason why the interiors would not be well lit. However, as in Appeal A, the outlook would be very limited from rooms in which high level rooflights were installed. This would apply to all the rooms in Flat 6, whilst Flat 5 would be served by only one conventional window. The restricted outlook would again provide an oppressive internal environment for future occupants.
24. I accept the appellant's point that it is not unusual for loft flats to rely on rooflights. However, that does not mean to say that it is acceptable for habitable rooms within loft flats to have no meaningful outlook.
25. The decision notice relating to Appeal A additionally raises concern in relation to the outlook from a window serving the main living space of Flat 3. However, this would not be obstructed by the 'hedge' shown on the plans, so long as the hedge was kept trimmed. Indeed, I see no particular reason why the hedge would be allowed to grow to cover the window.
26. The main living spaces in Flats 2 and 4 in Appeal B would each be lit by a single window. Though the windows in question would be reasonably large, due to the depths of the rooms the kitchen spaces at their rear ends would not be well lit. The effects would be accentuated by the kitchen layouts themselves as these are shown arranged against the back walls. Whilst the layout and internal furnishings could each be adjusted to make better use of the available light, some need to supplement this with artificial lighting would no doubt remain. Even so, I consider it unlikely that this would cause any unacceptable harm to the living conditions of occupants.
27. The Council additionally considered that provision of outdoor amenity space would be inadequate in relation to Appeal A. In the case of Appeal B however, the potential to use a nearby local park was acknowledged. Clearly the future occupants of both schemes would be able to use the park for recreational purposes, and this would compensate for lack on on-site space.

28. The Council also expressed concern in relation to scope to dry clothes in relation to Appeal A. However, in neither scheme has it been shown, or is it immediately obvious, how future occupants could make desirable or practical use of the available outdoor space for this purpose. In any case, the alternative of using a standard technological solution, such as the installation of energy efficient washer/driers within the flats, clearly exists. This could therefore be a matter addressed by suitably worded condition.
29. For the reasons outlined above I conclude that the level of internal lighting of flats would be acceptable in relation in both schemes; that the outlook from Flat 3 and amount of outdoor amenity space provided in relation to Appeal A would also be adequate; but that the limited outlook provided from flats located in roof in both Appeals A and B would cause unacceptable harm to the living conditions of occupants. As such in this regard both Appeals A and B would again conflict with Policy PP27 of the LP which amongst other things requires development to not have a harmful impact on the amenity of future occupiers.

Highways

30. The dimensions of the parking layout in Appeal A would not enable straight forward vehicular access and egress from some spaces on site due to the limited amount of turning space available. Whilst both parties therefore agree that reversing out of the access might occur, they also agree that vehicles could turn within the site. Reversing out of the site access could therefore occur, but not in all cases.
31. Seliot Close is not a through road, or of any great length, and nor does it service a very large number of dwellings. It is therefore reasonable to assume that vehicle speeds and the volume of traffic using the road are each generally low. Moreover, vehicles are likely to travel at a very low speed approaching the junction of Seliot Close with Fernside Road, and little faster when entering the Close itself. In this context the majority of off-road parking space in Seliot Close can at present only be used by reversing onto or off of the road, often between vehicles parked on-street. Vehicle movements of this type are therefore an established feature of which most drivers and pedestrians using the Close would presumably be both aware.
32. Given these general characteristics of the highways environment within Seliot Close, the risks entailed should a driver choose to reverse from the site access would be low, even where some restriction of visibility up Seliot Close could arise due to on-street parking. It is furthermore likely that a vehicle reversing out of the site access would be clearly visible both to a driver turning into Seliot Close due to the restriction of on-street parking in that direction, and to pedestrians approaching the access provided low boundary treatments were installed. Little risk of collision would thus exist.
33. Though it may be necessary for the drivers of vehicles to wait whilst a vehicle reversed from the access, this would not itself give rise to any obvious increased highways safety risk within Seliot Close, or be likely to cause harmful congestion due to a temporary pause in what limited traffic flow exists.
34. The scheme subject of Appeal A would provide one space less than the 'optimum' level of on-site parking identified in the Parking and Highway Layout in Development Supplementary Planning Document 2011 (the SPD). Provision

below the optimum level is however permissible where this would not cause highway safety problems, or cause inconvenience to other highway users or users of the site.

35. I have been provided with no data regarding the level of vehicle ownership by current or past occupants of the dwelling on the appeal site, or any detailed information relating to where or how such vehicles have been parked. It is however reasonable to assume that occupants could own more than one vehicle, and that one of these vehicles might need to be parked on street. In this regard I note that the length of the site frontage on Seliot Close is sufficient that up to 3 vehicles could be comfortably accommodated immediately alongside. Parking on-street outside a dwelling clearly cannot be guaranteed, but it is not an unreasonable expectation within a residential context. For these reasons, the demand for on-street parking in relation to Appeal A would not necessarily be any greater than it is, could or has been in relation to the current use of the site, and would not otherwise be unreasonable in itself.
36. It is of course possible that parking on-street outside the site could displace overspill parking from other dwellings in Seliot Close, thus resulting in a very minor increase in competition for on-street parking space. However, it is unclear how or why this should result in any harm to the safe or efficient use of the highway in Seliot Close, or generate levels of pollution that would be sufficient to cause exceptional environment harm. In the absence of clear explanation or evidence, I can see no reason to consider that any such harm would arise.
37. For the reasons outlined above I conclude that the development subject of Appeal A would not cause unacceptable harm in relation to the safe or efficient use of the highways. In this regard the scheme would comply with provisions of Policy PP27 which require the provision of a safe environment and convenient and practical parking; Policy PP35 of the LP, which requires new development to provide safe access to the highway and to comply with the SPD; and the SPD.

Other Matters

38. In relation to both Appeals A and B, the lack of avoidance/full mitigation of the likely significant effects that the Council considers each of the developments would have on the integrity of the Dorset Heathlands Special Protection Area (SPA) and Ramsar sites, the Dorset Heaths Special Area of Conservation, and the Poole Harbour SPA and Ramsar sites, was a reason for refusal of planning permission. In each regard mitigation is covered by a combination of Community Infrastructure Levy payments towards infrastructure projects, and financial contributions towards Strategic Access Management and Monitoring (SAMM). Though the appellant indicated that planning obligations would be submitted to secure contributions towards SAMM, none have been submitted. Had I been minded to allow either of the appeals, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further and to undertake Appropriate Assessments. However, as I am dismissing the appeals for other reasons, no further consideration is required.
39. I acknowledge the various paragraphs of the National Planning Policy Framework (the Framework) to which my attention has been drawn by the

appellant in relation to both schemes, particularly those relating to the effective and efficient use of land, and the weight that should be given to the benefits of using suitable sites within existing settlements for homes. However, when also taking into account broader national policy relating to design and the provision of high standards of amenity, these paragraphs do not cause me to consider that the harm that would arise in relation to either scheme would be acceptable, or that either scheme would accord with national policy set out within the Framework as a whole.

Conclusion

40. For the reasons set out above I find that whilst the development subject of Appeal B would not cause unacceptable harm to the character and appearance of the area, and the development subject of Appeal A would not cause unacceptable harm in relation to highways matters, the development subject of Appeal A would nonetheless itself have an unacceptable impact on the character and appearance of the area, both schemes would cause unacceptable harm to the living conditions of occupants of No 4, and both schemes would provide unacceptable living conditions for future occupants of the buildings proposed. For these reasons both schemes would conflict with the development plan taken as a whole. No other considerations outweigh either these findings, or the harm that would be caused. I therefore conclude that both Appeal A and Appeal B should be dismissed.

Benjamin Webb

INSPECTOR