



Appeal Decision

Site visit made on 14 August 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 08 September 2020

Appeal Ref: APP/V1260/W/20/3249572

24 Chewton Way, Highcliffe, Christchurch BH23 5LS

- 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 & Mrs Ruff against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 8/19/1152/FUL, dated 7 August 2019, was refused by notice dated 30 January 2020.
 - The development proposed is erection of 2-bedroom detached dwelling following demolition of existing garage, with associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: the character and appearance of the area; protected trees, having regard to the living conditions of future occupiers of the proposed dwelling; and the living conditions of neighbouring occupiers with particular regard to outlook and noise disturbance.

Reasons

Character and appearance

3. The appeal site is set at the head of a cul-de-sac and, like its neighbours, is a wedge shaped plot, fairly narrow at the edge of the carriageway and widening significantly to the rear. Dwellings around the cul-de-sac are generally bungalows of varying design, set back from the road with gardens and parking at the front and many have driveways to the side. Consequently, the street has a spacious character. Large trees in rear gardens, particularly those in the appeal site, are clearly visible above and between dwellings and create a verdant backdrop which contributes positively to the character and appearance of the area.
4. There are a number of dwellings set behind others in the cul-de-sac, parts of which can be seen from the road. As such, the backland siting of the appeal proposal would not in itself be out of character with the street. Those dwellings are however generally of similar scale to the dwellings around them, and have driveways to the side. As such, they have not materially diminished the spacious character of the area.
5. In contrast, the proposed dwelling would largely fill the space to the side of No 24 and would be significantly narrower and lower in height than that dwelling. The height and width of the proposed dwelling would be similar to outbuildings on other plots and a triple garage previously approved on the appeal site. However, from

the road, the front door and porch would make it clear that it was a residential property, and this would be further emphasised by the proposed fence dividing it from the No 24, and its separate parking. Therefore, the proposal would have a significantly different impact to the approved outbuilding.

6. The proposed dwelling would be set in a very modest plot, the size and shape of which would contribute to the narrow form proposed. The size of the plot would not be evident from public viewpoints, and parking and garden space for both the existing and proposed dwellings could be provided. Nevertheless, due to its appearance, scale and siting, the proposal would appear cramped and contrived within the plot. Consequently, it would detract from the spacious character of the cul-de-sac.
7. Accordingly, the proposal would harm the character and appearance of the area. While the supporting text to Saved Policy H12 of the Borough of Christchurch Local Plan (2001) (LP) supports infill development rather than use of greenfield sites, the proposal would conflict with that part of the Policy which requires residential development to be appropriate in character, scale, design and materials to the immediate locality. Furthermore, it would conflict with Policy HE2 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (2014) (CS) which requires high quality design and permits development if it is compatible with or improves its surroundings, including in relation to layout, site coverage, scale, height and visual impact.

Trees and living conditions of future occupiers

8. The trees in the rear garden are subject to a Tree Preservation Order. Due to their size and visibility, they make a significant positive contribution to the character of the area. The proposed dwelling would be outside of the root protection areas (RPA) of any of the trees, and the appellants' arboricultural assessment demonstrates that, subject to appropriate working methods and protective fencing, construction would not adversely impact on the trees.
9. The proposed dwelling would however be close to a substantial Blue Cedar, which has a prominent central position in the existing garden, and is visible from surrounding streets. As it would be to the north of the proposed dwelling, that tree is unlikely to result in any shading of its garden. However, it would create a somewhat gloomy environment for the side windows, which are proposed to serve the main living space. Moreover, due to its proximity to the proposed dwelling the tree is likely to drop debris on it, and generate significant concern during strong winds due to the potential for damage from falling limbs. Furthermore, the small garden of the proposed dwelling is likely to be significantly shaded by the densely packed group of smaller trees to the east, the dwelling itself and the proposed boundary fences and hedging.
10. Cumulatively, these factors are likely to result in long term pressure to fell or reduce the size of the protected trees, particularly the Blue Cedar. Given the proximity of the dwelling to these trees, it would be difficult for the Council to resist such works, and the loss or reduction of these trees would harm the verdant character of the area. Conversely, if the trees were to remain as existing, the quality of the main living area and outside space of the proposed dwelling would be significantly compromised.
11. Consequently, the proposal would either result in harm to protected trees, and thereby to the character and appearance of the area, or result in unsatisfactory living conditions for future occupiers. As such, it would conflict with CS Policies HE2 and HE3 and LP Policy H12 which, amongst other things, seek to ensure

development is compatible with and protects natural features, such as trees, which are part of the character of the area.

Living conditions of existing occupiers

12. The use of the parking area to the front of the proposed dwelling would result in vehicles manoeuvring, car doors shutting and people talking, which would generate considerable noise disturbance in close proximity to the side of No 24, to the detriment of the living conditions of the occupiers. If the approved garage were built the area would be used for the same purposes, but by the occupiers of No 24, whereas the activity associated with the proposed dwelling would be outside of their control. As such, the garage would not have a comparable effect to that of the appeal proposal in terms of noise disturbance.
13. Many dwellings in the cul-de-sac have driveways beside them, however most serve that dwelling and where they do not, such as at No 18, there is mitigation in the form of boundary treatments that provide some separation, and few or no windows in the side elevation of the dwelling. While a fence is indicated between No 24 and the proposed parking, the height is not specified. A low fence would have little impact on noise, and a higher fence would significantly restrict the outlook from the side windows of No 24, which serve a living area. As such, the provision of a dividing fence would not in this case mitigate the harm identified without resulting in harm to the living conditions of No 24 in terms of outlook.
14. The proposed dwelling would be sited close to 29 Highland Avenue, and due to its height and proximity to the boundary, it would be seen from a large bathroom window in the side of that property and from its side garden. However, the window is obscure glazed and faces onto vegetation, and as such already has limited outlook. While the occupier of No 29 advises that it has to be opened when the bathroom is in use, a bathroom is unlikely to be used as intensively as a bedroom or living room, and as such, users are likely to be less sensitive to changes in its outlook. Furthermore, the proposed dwelling would have a hipped roof, and the section projecting to the rear would be lower in height than the main part of the dwelling. As such, the outlook from the garden would not be significantly affected.
15. I am also mindful that there is a reasonable prospect that the approved garage would be built if this appeal were unsuccessful. The garage would be of similar height to the proposed dwelling and set further forward, partially across the bathroom window. The proposal is therefore likely to have less impact on the outlook from the bathroom window than the previously approved scheme. Consequently, the proposal would have a limited impact on the outlook from No 29 and would not significantly adversely affect the living conditions of the occupiers in this respect.
16. The noise and disturbance resulting from use of the proposed parking area would be evident from the bedroom windows in the side of No 29. However, that area is already used for parking of vehicles by No 24, and is likely to be more intensively used if the approved garage were built. Therefore, the impact of the proposal on the living conditions of No 29 in respect of noise disturbance would not be significantly different to what could already occur, and as such does not warrant refusal.
17. Consequently, while the proposal would not significantly adversely affect the living conditions of No 29 in terms of outlook and noise disturbance, it would harm the living conditions of the occupiers of No 24 in respect of noise disturbance. Therefore, the proposal would conflict with CS Policy HE2 insofar as it requires

development to be compatible with nearby properties, including minimising general disturbance to amenity.

Planning Balance and Conclusion

18. The proposal would make efficient use of land in a built-up area, deliver housing in an accessible location, and result in economic benefits from construction and occupation. The Council advises that it can only demonstrate 4.77 years housing supply. However, in the context of this relatively small shortfall in supply, the benefits of one additional dwelling would be limited.
19. The proposal could meet development plan requirements in terms of car and cycle parking and could provide adequate bin storage. However, these are of neutral consequence in the planning balance.
20. I have however found that the proposal would harm the character and appearance of the area, protected trees, and the living conditions of the occupiers of No 24. The relevant development plan policies support new residential development where it is appropriate to the character of the area and does not adversely affect the living conditions of neighbours, which the proposal would not achieve. Consequently, I conclude that the proposal would conflict with the policies of the development plan as a whole.
21. Given the shortfall in housing land supply, Framework paragraph 11d) is engaged and the policies most important for determining the appeal are out-of-date. Nevertheless, those policies are consistent with the requirements of the National Planning Policy Framework (the Framework) to achieve high quality design and provide a good standard of amenity for existing and future users, and as such I afford the conflict with them very substantial weight.
22. The proposal would boost housing supply on a small windfall site in a settlement and would make more effective use of underutilised land, as encouraged by the Framework. The site is a residential garden in a built-up area however, and as such does not fall within the Framework definition of previously developed land. Therefore the proposal would not benefit from local and national policy support for the use of such land. It would also conflict with Framework policies in relation to design and amenity. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies of the Framework taken as a whole.
23. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan. The appeal is therefore dismissed.

L McKay

INSPECTOR