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## Appeal Decision

Site visit made on 18 August 2020

**by S Leonard BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 September 2020**

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**Appeal Ref: APP/V1260/W/20/3251424**

**78A & 78B Herbert Avenue, Poole, Dorset BH12 4HU**

- 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 Tony Phillips (Pentagon Poole Ltd) against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref APP/18/00515/F, dated 10 April 2018, was refused by notice dated 31 March 2020.
  - The development proposed is to erect a detached one bedroom bungalow.
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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;
  - The effect of the proposed development on the living conditions of the occupiers of 78A and 78B Herbert Avenue, with particular reference to outlook, privacy, light and noise disturbance impacts and provision of external amenity space; and
  - The effect of the proposed development on the living conditions of future occupiers of the appeal scheme, with particular reference to external amenity space.

### Reasons

#### *Character and appearance*

3. The appeal site is occupied by 4 flats, comprising two 2-storey buildings fronting onto Herbert Avenue, which is a busy main road. The locality comprises an established residential area interspersed with some commercial uses, including an adjacent public house. There are a mix of single and two storey, detached and semi-detached dwellings, of a variety of designs, within the site vicinity. The layout of development includes rear infill residential properties behind dwellings in Rossmore Road, Hilda Road and Herbert Avenue, including detached bungalows at 273 Rossmore Road, 17a Hilda Road and 78C Herbert Avenue. The latter shares joint vehicular access with the appeal site and its parking lies within the site.

4. The proposed single storey dwelling would be sited to the rear of 78B and 80 Herbert Avenue, on a part grassed and part paved parcel of land surrounded by residential properties and a row of parking spaces. Close-boarded fencing defines the site boundaries with 3 neighbouring properties but there is no boundary treatment separating it from the adjacent flats blocks and car parking.
5. The proposal includes the partial demolition and rebuilding of a detached on-site garage, which would be specifically allocated to the proposed dwelling, and alterations to the existing on-site parking to rear of no.78A to provide 6 unallocated spaces for use by nos.78A, 78B and 78C.
6. Rear residential infill development forms part of the prevailing pattern of development within the area, and the principle of a new dwelling behind the flats blocks has already been established through approval of the bungalow at no.78C. However, the appeal scheme would position the new dwelling in close proximity to both sides and the rear boundary of its plot, comprising an unduly tight arrangement in relation to the boundary fencing to three sides and the surrounding dwellings. Furthermore, the position of the new dwelling would be at odds with the layout of neighbouring dwellings as it would not relate to their front and rear building lines or established alignment of buildings. As such the new dwelling would sit incongruously in relation to the established layout of built development within the site vicinity.
7. Notwithstanding the proposed soft landscaping to the front of the new property, buildings, parking spaces and the shared access drive would take up a disproportionately large amount of the appeal site as a whole, with a comparatively small amount of land to be provided as landscaped garden.
8. The result would be a cramped and congested form of development which, despite the existing relatively high density of development within the site vicinity, would overly intensify the quantity of built form on the site. The new dwelling and the neighbouring properties would not be provided with sufficient spaciousness of setting.
9. Whilst the development would not be widely perceived within the street scene, the resulting scheme would, nevertheless, be viewed as an overly intensive form of development which would exceed the capabilities of the existing site to accommodate an additional dwelling.
10. For the above reasons, I therefore conclude that the proposed development would materially harm the character and appearance of the area. As such, the proposal would be contrary to Policies PP27 and PP28 of the *Poole Local Plan 2018* (LP) which, amongst other things, seek to ensure that new developments achieve a good standard of design, which reflects or enhances local patterns of development and neighbouring buildings in terms of layout and siting, including built site coverage, and only permit plot severances where there is sufficient land to enable a layout of development to be accommodated in a manner which would preserve or enhance the area's residential character. For these reasons, the proposal would also be contrary to policies of the *National Planning Policy Framework 2019* (the Framework) which seek to secure high quality design as set out in Chapter 12.

*Living conditions of neighbours*

11. The proposal would result in the loss of the rear communal garden area for the 4 flats at nos. 78A and 78B, as established by the 2006 planning permission for these properties. Although the appellant has confirmed that the appeal site has since been registered separately from the flats with the Land Registry, there is no evidence before me that, for planning purposes, the land can be lawfully used other than in association with the flats. As such, I find that the loss of this amenity space would be detrimental to the living conditions of the occupiers of the flats. It has not been demonstrated that the remaining garden area to the front of the site is of sufficient size, and can provide a satisfactory level of privacy in public views from the road, to provide practical outdoor amenity space sufficient to serve the requirements of 4 separate households.
12. The proximity of the proposed dwelling's garden to the rear elevation of no.78B, which includes 2 ground floor bedroom windows within a footpath's width of the proposed side boundary hedging, would materially harm the living conditions of the occupants of the ground floor flat. The proposed 1.5m high hedging would not prevent close-range views from the garden into the rear bedrooms. There is also potential for noise and light disturbance arising from users of the garden and the enlarged communal parking area, given the closeness of both to the rear habitable room windows of both flats blocks. Any form of boundary treatment to address these impacts would need to be of such a height and design that, due to its proximity to them, it would result in a detrimental impact on the outlook from, and daylight entering, the ground floor rear flat windows.
13. For the above reasons, I therefore conclude that the proposed development would materially harm the living conditions of the occupiers of 78A and 78B Herbert Avenue, with particular reference to outlook, privacy, light and noise disturbance impacts and provision of external amenity space. As such, the proposal would not accord with LP Policies PP27 and PP28 which, amongst other things, require new development to be compatible with surrounding uses and not result in a harmful impact upon amenity for local residents and to provide satisfactory external amenity space for any existing occupiers. This is generally consistent with paragraph 127 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

*Living conditions of future occupiers*

14. As a result of the set-back position of the new dwelling and its close proximity to the side and rear site boundaries, the only proposed external amenity space of any meaningful size would be sited to the front of the dwelling. I find that it would not comprise a practical layout and position which would satisfactorily serve the needs of the new dwelling.
15. Whilst some overlooking of neighbouring gardens is not uncommon within built up urban areas, this would not account for the close proximity direct overlooking of the proposed garden by the first floor rear elevation windows of no.78B which would materially harm the privacy of users of the garden. The impact would be exacerbated by the proximity of the two rear elevation ground floor windows and access path adjacent to the rear wall of no.78B. The proposed side boundary hedge would not be sufficiently high to mitigate

against this loss of privacy arising from the 4 rear elevation habitable room windows of no.78B and the rear access footpath to that property.

16. Furthermore, the surrounding of the garden by the flats buildings, communal parking area, access paths and flank wall of the adjacent bungalow, together with the comings and goings of the cars and occupiers of those separate households, all within very close proximity to the proposed external amenity area, would have an overbearing, oppressive and enclosing impact on users of the garden. This would not be overcome by the proposed boundary hedging.
17. As such, whilst the garden would benefit from sunlight due to its orientation, this would not outweigh the aforementioned harm to amenity that I have identified. I do not find that the proposed small and enclosed patio to the rear of the bedroom would provide meaningful amenity space to accommodate the typical requirements associated with outdoor play space, dining and drying facilities that could reasonably be expected to be required in association with a dwelling of the size proposed.
18. For the above reasons, I therefore conclude that the proposed development would not provide satisfactory living conditions for the future occupiers of the appeal scheme, with particular reference to external amenity space. As such, the proposal would not accord with LP Policies PP27 and PP28 which, amongst other things, require new development to provide satisfactory external amenity space for new occupiers and only permit plot severances where there is sufficient land to enable a layout of development, including usable amenity space, to be accommodated in a manner which would preserve or enhance the area's residential character. This is generally consistent with paragraph 127 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

### **Other Matters**

19. The Council's fourth and fifth reasons for refusal relate to the failure to secure avoidance/full mitigation of the likely significant effects from recreational pressures that the Council considers additional residential dwellings would have on the integrity of the Dorset Heathlands Special Protection Area (SPA) and Ramsar site, the Dorset Heaths Special Area of Conservation, and the Poole Harbour SPA and Ramsar site. 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) in accordance with the Council's mitigation strategy as set out in the *Dorset Heathlands Planning Framework (2020–2025) Supplementary Planning Document (2020)*, and the *Poole Harbour Recreation 2019-2024 Supplementary Planning Document (2020)*.
20. Although the appellant has confirmed agreement to contributing towards SAMM, this has not been secured through the planning application or appeal process. Had I been minded to allow the appeal, 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 of the implications of the appeal scheme for the European designated sites. However, since I find the proposal to be unacceptable in respect of the aforementioned main issues, the outcome of any such Appropriate Assessment would have no bearing on the overall outcome of

this appeal. There is therefore no need for me to consider this matter any further as part of my decision.

21. Notwithstanding that the Framework encourages the effective use of land for new housing, this is not unqualified, and would not address, or outweigh, the aforementioned harm that I have identified to the character and appearance of the area, and to the living conditions of neighbours and future occupants of the development. Furthermore, one additional dwelling would make very little meaningful contribution to the Council's supply of housing.
22. I have noted that the Council has raised no objection to the proposed bungalow design and vehicular access and parking arrangement. However, this does not affect my conclusions in respect of the main issues.

### **Conclusion**

23. For the reasons given above, I conclude that the appeal should be dismissed.

*S Leonard*

INSPECTOR