The Planning Inspectorate

Appeal Decision

Site visit made on 2 September 2020

by M Scriven BA (Hons) MSc CMgr MCIHT MCMI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/V1260/W/20/3253993
4 Mornish Rd, Poole, BH13 7BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Amirez LTD against the decision of Bournemouth, Christchurch and Poole Council.
- The application Ref APP/20/00067/F, dated 17 January 2020, was refused by notice dated 28 February 2020.
- The application sought planning permission to demolish existing dwelling and erect a new dwelling with integral garage without complying with conditions attached to planning permission Ref APP/16/01743/F, dated 11 September 2019.
- The conditions in dispute are Nos 8 and 10 which state that: 8: The proposals for the landscaping of the site, as shown on the approved plans (including provision of landscape planting, the retention and protection of existing trees and other site features, walls fencing and other means of enclosure and any changes in levels) shall be carried out as follows: a) the approved scheme shall be fully implemented with new planting carried out in the planting season October to March inclusive following occupation of the building(s) or the completion of the development whichever is the sooner, or in accordance with a timetable to be agreed in writing with the Local Planning Authority; b) all planting shall be carried out in accordance with British Standards, including regard for plant storage and ground conditions at the time of planting; c) the scheme shall be properly maintained for a period of 5 years and any plants (including those retained as part of the scheme) which die, are removed or become damaged or diseased within this period shall be replaced in the next planting season with others of a similar size and the same species, unless the Local Planning Authority gives written consent to nay variation; and d) the whole scheme shall be subsequently retained. 10: The 600mm high stone wall to the front boundary of the site and open metal and timber gates to the vehicular accesses as indicated on the approved plans shall be erected in accordance with the details indicated on the Gates and Garden Wall Plan (Drawing No. 01.13.2) prior to the first occupation of the dwelling, hereby permitted, and shall be retained and maintained as such at all times thereafter.
- The reasons given for the conditions are: 8: In the interests of visual amenity and the character and appearance of the Branksome Park Conservation Area, to ensure that the approved landscaping scheme is carried out at the proper times and to ensure the establishment and maintenance of all trees and plants in accordance with Policy PCS23(A) of the Poole Core Strategy (February 2009) and Policies DM1 (iii) and DM2 of the Poole Site Specific Allocations and Development Management Policies DPD (April 2012) 10: In the interests of visual amenity and the character and appearance of the Branksome Park Conservation Area and in accordance with Policy PCS23 (A) of the Poole Core Strategy (February 2009) and Policies DM1 and DM2 of the Pools Site Specific Allocations and Development Management Policies DPD (April 2012).

Decision

1. The appeal is dismissed and planning permission is refused for the variation of conditions 8 and 10 of planning permission 16/01743 (original 14/01655/F), as described in that description of development, to amend the design of the approved metal gates and regularise the existing situation.

Procedural matters

2. The original act of development (ref 14/01655/F) is described in the banner heading above. However, that permission has been subsequently amended. For clarity, the decision relates to the refusal of planning permission for the variation of conditions of planning permission 16/01743/F, which itself related to the variation of conditions of the original development.

Main Issue

3. The main issue is the effect of the proposed changes to conditions on the character or appearance of the Branksome Park Conservation Area (CA).

Reasons

4. The Council previously agreed to metal gates being installed at the property that incorporated horizontal bars. Following installation, the appellant covered the front of the gates in metal cladding. The Council's reasoning for the conditions is as stated in the banner heading above. The subsequent reason for refusing planning permission to vary the conditions and regularise the existing situation, was the effect of the gates on the distinctive setting of the CA.

5. The significance of the setting of the CA is positively defined by its almost rural character and distinct sense of isolation from the town, buildings generally sit in generous plots set back from the road with boundary treatments such that glimpses are afforded to the attractive buildings and gardens located behind. Although only glimpses, these views further add to the overall setting of the conservation area.

6. Mornish Rd itself is located in character area 9, of the CA. The significance of this part of the CA is further defined by its distinctive informal rural sylvan appearance, where the dominance of trees and rhododendron planting prevails and boundary treatments are generally low key. Legislation and national policy require great weight be given to the preservation or enhancement of the significance of designated heritage assets such as the CA.

7. The prevailing appearance of gates in Mornish Rd are of vertical metal bars, this reflects the established norm throughout the CA. The gates in situ at the property, albeit constructed of high quality materials, have a solid appearance, resembling features associated with a modern industrial design when seen from the road. This is a departure from the prevailing rural sylvan setting, resulting in an arrangement that is at harmful odds with its wider surroundings. Although slightly set back from the road the gates appear as prominent features, despite the presence of nearby trees and shrubs.

8. Other solid metal gates are apparent in the CA. However, I have no detail of their acceptance before me and they do not positively contribute to the wider character or appearance of the conservation area. Likewise, a small number of solid gates exist on Mornish Rd. However, their effect is somewhat softened by

virtue of their wooden, rather than metal construction. Similarly, although there are a mix of boundary treatments on Mornish Rd this is not defining in terms of the appearance of the road.

9. I acknowledge that the appearance of the gates links to the overall contemporary appearance of the building which sits some distance behind. However, the positioning of the boundary is such that the gates are seen in the context of the wider area rather than being solely seen against the building. The gates which were previously agreed, and appear to be shown in the appeal statement, without metal cladding, assimilated with the building, the established form of the road and the wider conservation area. The effect of the installed cladding has created an arrangement which is in harmful contrast to the established form and prevents glimpses to that which sits behind.

10. Design code 3 of the Branksome Park Conservation Area Management Plan, details what is considered to be acceptable design in the conservation area and specifically that gates should be open in design. Although dated, I concur that the current solid appearance of the gates in situ at the appeal property are harmful for the reasons above.

11. I acknowledge that the appellant has sought to improve their perceived privacy and security by cladding the gates. Notwithstanding the view of the appellant that this enhances or better reveals the significance of the CA, in my view the approach taken to achieve this has resulted in harm to the CA.

12. Therefore, the proposal to regularise that which exists through removal or revising the current conditions, would not accord with the Policies PP27 and PP30 of the Poole Local Plan (2018), which seek to ensure development respects the local character and appearance of the area and enhance or better reveal the significance of conservation areas.

13. Likewise, the development does not accord with the National Planning Policy Framework's, 2019, objectives of sustainable development and achieving well-designed places when read as a whole.

14. Although harmful to their surroundings, the harm to the CA is less than substantial. This still represents a harmful effect, adversely affecting the significance of the CA. Less than substantial weight should be weighed against the public benefits of the proposal. Although the perceived benefit of increased security is referred to, this is largely a private benefit. Therefore, the harm to the CA would clearly outweigh the benefit.

15. The absence of objection from the highway authority does not amount to more than a neutral consideration in my decision. The appellant considers that the Council have acted unreasonably by not pursuing enforcement against others with solid gates. However, this is a matter for the Council to consider, the presence of solid gates elsewhere does not define the area in any positive way and I must consider the appeal on its own merits.

Conclusion

16. For the reasons above the appeal is dismissed.

M Scriven

INSPECTOR