
Appeal Decision

Site visit made on 11 December 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 7th January 2021

Appeal Ref: APP/V1260/W/20/3258789

6A June Cottage Warren Edge Road, Bournemouth BH6 4AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Lowman (Prestige Organisation) against Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2020-26201-E is dated 2 July 2020.
 - The application sought planning permission for 'Erection of two dwellinghouses and formation of parking spaces – revised scheme' without complying with a condition attached to planning permission Ref 7-2016-26201-A, dated 1 February 2017.
 - The condition in dispute is No 1 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans: 102, 103, 104, 105, 106, 107, 108 Rev A, 109, 110, 111, 113.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning*
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr David Lowman (Prestige Organisation) against Bournemouth Christchurch and Poole Council. This application is the subject of a separate Decision.

Background and Procedural Matters

3. Planning permission was granted in February 2017 (Ref. 26201-A), and a minor material amendment (MMA) was subsequently granted in September 2019, creating a new planning permission (26201-D). Between these two permissions, two other applications were submitted. 26201-B was refused and dismissed at appeal¹, and 26201-C was withdrawn.
4. This appeal proposes an MMA to the 2017 permission but incorporates some of the changes already approved in 2019, including changes to the appearance of the proposed dwellings, addition of a single storey rear extension, and glass guards across the first-floor rear windows. The appeal proposal also includes further changes comprising a balcony and additional window on the front elevation and glass guarding to the second-floor rear windows.

¹ APP/G1250/W/18/3197954

5. The appellant has submitted amended plans as part of the appeal, which were sent to the Council but not formally accepted. These seek to change the rear dormers from pitched to flat roofs, show the second-floor windows opening outwards and show the relationship of the proposal with 8 Warren Edge Road, which has recently been redeveloped as several dwellings and is now known as 'Monterey'. Side elevations have also been provided which were missing from the original submission. The proposed amendments either reduce elements of the proposal to what has previously been approved or provide missing details that are necessary for completeness. As such, I do not consider that any parties would be prejudiced by my accepting these plans.
6. According to the application form, development commenced on site in April 2019, and I saw at my site visit that the shell of a building was largely complete. The development does not however accord with either the 2017 or 2019 permissions, or either set of plans submitted with the appeal. There were several differences, including the size and shape of the windows and the roof. There is also some dispute between the main parties as to the levels and overall height of the building, and I note that the appellant states it has been built 700mm lower than approved. The appellant has not submitted plans of the development as built however, therefore I have determined the appeal based on the amended plans, and not the development I saw on site.

Main Issues

7. The Council did not determine the application within the statutory period but advises that if it had been in a position to make a decision it would have refused permission for several reasons.
8. The main issues are therefore the effect of the proposal on:
 - i) highway safety, with particular regard to provision of car parking;
 - ii) the character and appearance of the area; and
 - iii) the living conditions of neighbouring occupiers in respect of privacy.

Reasons

9. As the appeal is for an MMA, I can only consider the disputed condition subject of the appeal. I have however had regard to the previous permissions as material considerations for this appeal. From the evidence before me it appears that the 2019 permission remains extant and, notwithstanding the apparently unauthorised development currently on site, I consider that there is a realistic prospect that it could still be implemented, albeit that to do so might require removal of the existing building. Therefore, although the appeal relates to a condition on the 2017 permission, the 2019 permission represents a realistic fallback position, and one to which I give significant weight.

Highway safety

10. The Council has adopted a Parking Supplementary Planning Document (SPD), which requires car spaces located next to a wall to be a minimum of 5.5 metres in length and 2.6m in width. Two of the car parking spaces shown on the submitted plans would extend underneath the proposed balconies, between the supports. Due to the position of these supports, the parking spaces would be less than the required width. The Council also contends that two of the spaces would be less than the required depth, which the appellant does not dispute.

11. Therefore, cars in the narrower spaces would have to park close together, with limited space to open doors, particularly as the balcony supports would be close to the location of the car doors irrespective of which way vehicles were facing. Alternatively, occupants would park short of the proposed balconies to avoid this conflict, and as such would overhang the footway. Cars in the shorter spaces would also be likely to overhang the footway, as it is unlikely that they would park right up against the front wall of the proposed dwellings. Any cars overhanging the footway would reduce its width, to the detriment of the safety of pedestrians.
12. If future occupants of the proposed dwellings opted not to park in the substandard spaces, they would be likely to park on Warren Edge Road close to the site, as this part of the road is not subject to any parking restrictions, unlike surrounding roads. At my visit several vehicles were parked in the road, including some on the pavement, which limited the width of both the footway and the carriageway. Given its proximity to the sea, this road is also likely to be heavily used for tourist parking in summer. Consequently, additional on-street parking would further restrict the free flow of traffic and the operation of the highway, resulting in harm to highway safety.
13. Therefore, due to the substandard parking provision proposed, the proposal would result in unacceptable harm to highway safety and would conflict with Policy CS16 of the Bournemouth Local Plan Core Strategy (CS), which requires parking to be provided in accordance with the Council's adopted parking standards.
14. The Council refers in its submission to Policy 6.6 of the Bournemouth District Wide Local Plan (LP), however that relates to affordable housing and as such is not relevant to this appeal. The proposal would however conflict with LP Policy 6.8, which requires infill residential development to provide a safe environment, and with CS policy CS41 which requires development to contribute positively to the safety of the public realm.

Character and appearance

15. Warren Edge Road is predominantly residential, with a mix of dwelling types including traditional modest bungalows and more modern development of varying scale. The properties immediately either side of the appeal site are two storeys in height, however Monterey, Seaskem and the dwellings at the entrance to Shires Copse are up to 2.5 storeys in height. Monterey has multiple gable features with large windows over three levels and several front balconies. Front balconies are also found on several other properties nearby, including Seaskem, The Heights, and Shires Copse. All of these are clearly visible in the street scene and form part of the character of the area.
16. Both approved schemes featured a single front dormer and a projecting front gable with no window. The insertion of a window into this gable would give a further indication of accommodation in the roof, however this would already be evident from the approved dormer. The proposed window would not be significantly larger than the one in the dormer, would only occupy a modest proportion of the gable, and would be smaller than those below it at first floor level. As such, the overall impression would be of a 2-storey building with accommodation in the roof. Furthermore, given the gable windows present on Monterey and dwellings in Shires Close, it would not appear out of keeping with its surroundings or be prominent in the street scene.
17. At the rear, the proposed dormers would now be the same size as those approved in 2019 and would be well contained within the roof. While guarding is now proposed across the dormers to allow the windows to be opened fully, the amount

of glazing would be no greater than what has previously been agreed. As such, the proposed dormers would appear as rooms within the roof, rather than a third storey.

18. Therefore, the proposal would not give the appearance of a 3-storey development and would not increase the bulk and massing of the building compared to the approved scheme. It would therefore be significantly different to the scheme dismissed at appeal, which proposed two front gables and two rear gables with substantial windows in each, which gave the appearance of a 3-storey development.
19. The Council raises concerns about the built relationship of the proposed dwellings to neighbouring properties, however the proposal would not increase the width or depth of the proposed building compared to the 2019 permission. Therefore, although closer to Monterey than it would have been to the building previously at No 8, it would be no closer to its neighbours than the Council has already accepted when granting permission for development on the appeal site and next door.
20. The proposed balconies would be of limited depth, and as such would not project far beyond the front of the proposed dwellings. Due to the falling ground levels they would be lower than those on Monterey, and not a full storey above road level. Due to the glass guarding and simple supports proposed, they would not appear as substantial structures. Consequently, they would not be prominent features when seen from the road. Given the numerous examples of other balconies in the area, the proposed balconies would not appear unsympathetic or uncharacteristic in this street scene.
21. Accordingly, the proposal would not harm the character and appearance of the area. It would not therefore conflict with the requirements of CS Policies CS21 and CS41 and LP Policy 6.8 which require development to be well designed and contribute positively to the character and function of the neighbourhood. I also find no conflict with the Council's Residential Development Design Guide, which seeks to ensure good quality design that integrates with the character of the area, or with the requirements of the National Planning Policy Framework (the Framework) to achieve good design.

Living conditions

22. The appeal site is on higher ground than properties in Church Road and Shires Copse, such that the rear of the development would look towards their rear gardens. The proposed first floor openings would be the same as were approved in 2019 and would not be significantly larger than those approved in 2017. Therefore, while they would offer some views into neighbouring gardens, they would not result in any additional impact on the privacy of the occupiers of those properties compared to what would arise from the approved schemes.
23. The proposed dormers would be the same size as approved in 2019, but the appellant now proposes that the windows would fully open outwards. It is unclear how this would be achieved as glass guarding is proposed, however it is possible that the guarding would be sited internally, rather than externally. This would allow occupants to lean out over the guarding and achieve broad views out over neighbouring properties, to the detriment of the privacy of the occupiers.
24. The plans provided for the 2019 permission show a different pane arrangement, with horizontal rather than vertical divisions. While the Council suggests that these were not permitted to be side-hung hinges, there is nothing on the plans that I have been provided with to indicate this, nor are there any conditions on that permission specifying or limiting the opening arrangements. Therefore, there does

not appear to be anything preventing them from being top or side hung, enabling occupants could open the top part and lean out over the lower panes, giving a similar view to what could be achieved from the appeal scheme.

25. Nevertheless, because of the larger opening area and the likelihood that occupants would want to stand and look out over the guarding, the proposal would give a greater perception of overlooking of neighbours than the approved scheme. As such, the proposal would result in a slight additional harmful impact on the privacy of neighbouring occupiers. This could however be mitigated by a planning condition requiring the design of the windows and guarding to be approved by the Council, for example so that only the upper parts of the windows could be opened, which would have no greater impact than the previous permission.
26. The proposed front balconies would be relatively narrow but would nonetheless potentially allow occupants to sit out, at a similar height to the upper windows in the properties opposite. However, there would be approximately 23m separation between the windows and balconies, which exceeds the recommended minimum distance in the Council's Design Guide. Furthermore, full-length glass doors with guard rails have already been approved on the front at first-floor level, and the proposed balconies would not be significantly closer to the properties opposite than those large openings. As such, the proposal would not result in materially greater overlooking of those properties than the approved scheme.
27. Accordingly, having regard to the extant permission, the proposal would not significantly adversely affect the living conditions of neighbouring occupiers in respect of privacy. I therefore find no conflict with CS Policies CS21 and CS41 insofar as they require development to respect the amenities of neighbouring residents, or with LP Policy 6.8 which, amongst other things, requires development to ensure adequate privacy for adjacent occupiers. Furthermore, it would not conflict with the Design Guide which sets out that proposals should not increase harmful overlooking, or with the Framework which requires a high standard of amenity for existing users.

Other Matters

28. Although not raised by the main parties, the previous Inspector identified that the appeal site was within 5km of the Dorset Heathlands Special Protection Area and Ramsar site, and the Dorset Heaths SAC, and that the development had the potential to impact on these Habitats sites. However, as I am dismissing on other grounds, it is not necessary for me to consider this matter further.

Planning Balance and Conclusion

29. While I have found that the proposal would not harm the character and appearance of the area or the living conditions of neighbouring occupiers, it would harm highway safety as a result of the proposed parking arrangements. The proposal would provide slightly more space for future occupiers, however the improved accommodation would be a private benefit for the occupants and as such carries very limited weight, and does not outweigh the harm identified. Consequently, there are no material considerations that would justify granting planning permission contrary to the development plan. The appeal is therefore dismissed.

L McKay

INSPECTOR