
Appeal Decisions

Site visit made on 7 January 2021

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal A Ref: APP/V1260/W/20/3257769

16 Western Road, Poole BH13 7BW

- 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 S Cook against Bournemouth Christchurch and Poole Council.
 - The application Ref APP/19/01576/F, dated 20 December 2019, was refused by notice dated 27 March 2020.
 - The development proposed is to demolish existing building and erect a 4 bedroom house with garage.
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Appeal B Ref: APP/V1260/W/20/3256493

16 Western Road, Poole BH13 7BW

- 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.
 - The appeal is made by Mr & Mrs S Cook against Bournemouth Christchurch and Poole Council.
 - The application Ref APP/20/00456/F, is dated 22 April 2020.
 - The development proposed is described as 'Demolition of the existing bungalow and garage and the erection of a replacement 2 storey house with integral garage (revised scheme)'.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed and planning permission for demolition of the existing bungalow and garage and the erection of a replacement 2 storey house with integral garage is refused.

Preliminary Matter

3. As set out above there are two appeals on this site. They differ in terms of the detail of the siting and design of the proposed dwelling. 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.

Background and Main Issues

4. The Council has confirmed that had it been in a position to determine Appeal B, it would have refused permission for reasons relating to the impact of the proposal on Branksome Park and Chine Gardens Conservation Area (CA) and protected trees.

5. Therefore, the main issue for Appeals A and B is the effect of the proposed developments on the character and appearance of the area, including trees, and Branksome Park and Chine Gardens CA. For Appeal A there is an additional main issue of the effect of the proposed development on the living conditions of the occupiers of 18 Western Road in respect of privacy.

Reasons

Character and appearance

6. The Branksome Park Conservation Area Character Appraisal and Management Plan (CAMP) explains that the special interest of the CA is derived from its spacious sylvan character and generous wooded plots, which derive from the division of the area into large building plots in the 19th Century. It identifies that one and two storey detached houses appear to nestle within woodland clearings and are often only glimpsed from the road. Throughout Western Road and the Branksome Park part of the CA the dominance of mature trees and vegetation creates a wooded, almost rural character distinct from the surrounding urban part of Poole, which contributes to the significance of the CA. The CAMP also sets out a number of design codes to be followed. While the CAMP predates the extension of the CA, it covers in detail the area around the appeal site and is still adopted guidance, and therefore remains of relevance. As identified by a previous Inspector¹, the character of the area is derived more from the landscape than the buildings and there is considerable variety in building styles and siting.
7. The appeal site lies within the Western Road (Lower) Character Area of the CA, which the CAMP identifies as having a more open character with buildings in varied positions on large plots. Trees form the backdrop to buildings and together with trees and planting along front boundaries, form a cohesive character to the area.
8. The site is smaller than most in the area due to previous sub-division of a larger plot, however the mature vegetation around the boundaries and small scale of the existing bungalow means that there are only glimpsed views of the building. Therefore, the site retains a spacious character and the boundary vegetation is the dominant feature of the site. Consequently, the appeal site shares many characteristic features of the CA and this Character Area. Most of the trees along the boundaries of the appeal site are subject of a Tree Preservation Order. Given the size of the trees and their prominence in public views, they contribute positively to the wooded character of the CA and are sensitive to change.

Appeal A

Design

9. At two storeys high, the proposed dwelling would be of similar height to other properties nearby. It would however be considerably taller and larger in scale and massing than the existing dwelling and would occupy a larger proportion of the site, coming closer to the boundaries and surrounding trees. As a result, there would be significantly less space around the proposed dwelling than around the existing bungalow, diminishing the spacious character of the appeal site.
10. While several substantial dwellings are clearly visible from Western Road, most are well screened by trees. Dwellings along Seaward Path are even more screened from view by dense vegetation, giving the impression that there is limited development along this public right of way. Although the proposed dwelling would be set back from Western Road and Seaward Path, due to its height and scale the

¹ APP/Q1255/W/17/3189976

upper parts and roof would be seen from those public viewpoints above the existing hedge and through the trees along the boundaries. As such, it would be of much greater prominence in the street scene than the existing dwelling.

11. The scale of the proposed dwelling would also partially obscure views through to the trees behind it, such that they would no longer be the dominant feature of the site when seen from the public realm. Instead, the proposed dwelling would become the dominant feature, and would appear out of proportion with the relatively small site and not subservient to the landscaping in and around the plot. Accordingly, the proposal would conflict with the guidance in the CAMP, and would detract from the spacious, sylvan character of the site and the secluded character of Seaward Path. Consequently, it would harm the character and appearance of this part of the CA.
12. The varied architecture within Branksome Park reflects architectural fashions over time, and I saw that there are a variety of building styles in the area around the appeal site, including the examples identified by the appellants. Nonetheless, in general both the traditional and modern dwellings in the area use a limited palette of materials and incorporate common feature such as deep overhanging eaves, hipped roofs and chimneys. The CAMP identifies that architectural variety contributes to the character of the CA and encourages Arts and Crafts styles. It seeks to maintain this mix, but highlights that no building style should pre-date the 1860's and states that mock Georgian architecture would be unacceptable.
13. The appellants' Design and Access Statement states that the proposed dwelling would be of 'traditional Georgian inspired design', which is evident in the small paned windows and symmetry of the main body of the proposed dwelling. However, other design elements such as the bay windows, roof form and eaves draw on the Arts and Crafts influence found in other dwellings in the locality. This would result in a confusing mix of features on the proposed dwelling which would sit uncomfortably together.
14. The scale of the large porch, bay windows and the number of first-floor windows breaking the eaves would also compete for prominence on the proposed front elevation. None would provide a clear focus, and as such the main elevation would have an incoherent appearance. The scale of the proposed two-storey bay window on the side elevation would also be at odds with the relatively low proportions of the roof, creating a dominant feature facing Western Road and increasing the prominence of the proposed dwelling in that street scene.
15. The Inspector for an appeal at 26 Western Road found that a more classical decorative roof form and large portico were acceptable on that site as they gave an acceptable focus to the main elevation. However, the elevation provided shows those features sat alongside otherwise simple window and roof forms and as such that scheme was materially different to the proposal before me, and does not justify the design proposed.
16. Consequently, the proposal would not achieve the high-quality design and architectural coherence of other dwellings in the area. It would result in an uncharacteristically prominent dwelling and detrimentally alter the balance between buildings and landscaping, in conflict with Code 12 of the CAMP. The proposal would not therefore add to the overall quality of the area and would harm the character and appearance of the CA.

Trees

17. The trees along the boundary with No 18 are close to the existing bungalow, and the main parties dispute whether they would need to be pruned to facilitate

construction. I saw on site that parts of their canopies already overhang the roof of the existing bungalow, and the proposed dwelling would be closer to these trees and considerably taller. Therefore, it is difficult to see how it could be constructed without any pruning work as the appellants' Arboricultural Method Statement (AMS) suggest, and I consider it very likely that some pruning would be necessary to avoid damage during construction.

18. The proximity of these trees to the proposed dwelling would result in potential for damage from dropped branches or other debris, particularly where the canopies would overhang the proposed dwelling. The proximity of the canopies to the sole window of a bedroom would also result in limited outlook from that room, although there is no compelling evidence before me that it would not receive sufficient light. These factors are likely to result in future pressure for reduction or removal of the trees. The proposed dwelling would also shade the lower parts of the trees which, while unlikely to affect their overall health, may lead to the loss of the lower branches, thereby reducing the density of vegetation along the boundary.
19. In addition, the siting and scale of the proposed dwelling would bring it significantly closer to trees T1-T3, T13 and T14² than the existing dwelling. Due to their height, proximity and location south of the proposed dwelling, these trees would overshadow at least the ground floor front windows for most of the day, including a bay window which would be the sole source of light to a living room. While the appellants suggest that direct sunlight into this room would not be desirable as it would be used to watch TV, it is reasonable to expect a good level of natural light into habitable rooms, whatever their purpose. Moreover, while the appellants intend to occupy the dwelling I cannot be certain that they, or other future occupiers would use the room in the way described. Therefore, the shading impact of these trees is likely to result in future pressure to reduce or remove them.
20. The Council raises concerns that tree removal or pruning may also be required to facilitate construction access. The appellants' updated AMS suggests that 3.7m clearance vertically and horizontally would already be required along Seaward Path and the site access for emergency vehicles, and that this would provide ample clearance for construction vehicles. The AMS does not however identify if this clearance is currently achieved, nor was it apparent from my site visit. Therefore, I cannot be certain that no further works to those protected trees would be necessary to avoid damage during demolition and construction. Nor has it been demonstrated that any tree works would be carried out even if the proposed development did not go ahead, as there is no evidence before me that consent has been granted for such works.
21. Although the Council would have the ability to refuse consent for works to protected trees, this would be considerably more difficult where there was evidence of a demonstrable need for them, such as where refusal would result in diminished living conditions for occupiers of the proposed dwelling. Therefore, it would not be appropriate to grant permission for a scheme where there is clear potential for such future conflicts to arise, unless outweighed by other material considerations, which I return to below.
22. The proposal would result in limited encroachment into the root protection area (RPA) of the trees along the boundary with No 18, in an area where there is already a raised patio. Therefore, with appropriate methods of working and, if necessary, appropriate foundation design, the proposed demolition and construction would be unlikely to adversely impact on the roots of these trees.

² As identified in the AMS

23. Nevertheless, cumulatively the factors set out above would be likely to lead to a reduction in the amount and density of tree cover along the boundaries of the site with No 18 and Seaward Path. This would diminish the sylvan character of the area and reduce the dominance of landscaping in this heavily wooded part of the CA, conflicting with Codes 1 and 12 of the CAMP and further harming the significance of the CA.

Overall effects on character and appearance and the CA

24. Due to its scale, height, design and likely future impacts on surrounding trees, the proposed dwelling would harm the character and appearance of the area. It would therefore conflict with Policy PP27 of the Poole Local Plan (LP), which requires a good standard of design that reflects or enhances local patterns of development and responds to natural features on site.
25. The existing bungalow is not of any particular architectural merit, therefore its demolition would not harm the significance of the CA. However, for the reasons set out above the proposed replacement dwelling would diminish features which contribute to the significance of the CA, and would not preserve or enhance its character and appearance. Overall therefore, the proposal would harm the significance of the CA.
26. As only a small part of the designated heritage asset would be affected, the proposal would result in less than substantial harm to the significance of the CA as a whole, having regard to the provisions of the National Planning Policy Framework (the Framework). Framework paragraph 193 directs that great weight should be given to the conservation of heritage assets, irrespective of the degree of potential harm to their significance. Paragraph 196 requires that less than substantial harm be weighed against the public benefits of the proposal.

Heritage balance

27. The proposal would generate short-term economic benefits through construction and a Community Infrastructure Levy payment which would contribute to strategic infrastructure in the area. There is however no substantive evidence before me that the proposal would result in investment to local businesses as the appellants suggest. The proposed dwelling would incorporate sustainable construction measures and generate some energy from renewable sources and would be likely to be more energy efficient than the existing building. However, some of the features designed to maximise solar gain and minimise artificial lighting, such as the south facing windows, would be compromised by the existing trees, reducing the effectiveness of these measures. The scale of these economic and environmental benefits for one dwelling would therefore be limited and carry limited weight.
28. The existing dwelling is already in a sustainable location and contributes to the choice of homes in the area. As a replacement dwelling the proposal would not contribute to housing supply and there is no substantive evidence before me of a need for a larger dwelling, particularly in an area characterised by large properties. Consequently, it has not been demonstrated that the type of dwelling proposed would result in social public benefits.
29. I afford great weight to the less than substantial harm to the significance of the CA, which would not be outweighed by the limited public benefits of the scheme. Therefore, the proposal would conflict with LP Policy PP30 which seeks to preserve or enhance the significance of heritage assets.

Living conditions

30. One proposed first floor bedroom window would face towards No 18, and due to its elevated position, proximity to the boundary and the gaps in the tree screen, the proposed window would be clearly visible from the neighbouring property and would provide direct views into its garden. Many of the trees along the boundary are deciduous and therefore would provide limited screening when not in leaf. This screening would potentially be reduced further by any pruning required for the reasons discussed above. While it is not unusual for neighbouring windows to be seen in a residential area, No 18 currently enjoys considerable privacy due to the tree screening and relative height and position of its neighbours. The height and proximity of the proposed window to No 18 would result in a significant and harmful increase in overlooking of that property, to the detriment of the living conditions of the occupiers.
31. There would be little space available for additional planting along this boundary and as such it has not been demonstrated that further screening could be provided. The window would be the sole outlook for the bedroom, therefore it would not be reasonable to require it to be obscure glazed, as that would not provide satisfactory living conditions for future occupiers of the proposed dwelling. The harm could not therefore be mitigated by planning conditions.
32. Accordingly, the proposal would harm the living conditions of the occupiers of No 18 in respect of privacy. It would therefore conflict with LP Policy PP27 insofar as it requires development to achieve good design compatible with surrounding uses and which would not result in a harmful impact on amenity for local residents.

Appeal B

Design

33. The proposed dwelling would be slightly smaller in scale and further from the trees along the northern boundary than in Appeal A and would therefore have slightly more space around it. Nevertheless, it would still be considerably taller and bulkier than the existing dwelling and as such would be prominent, and seen as the dominant feature of the site, when viewed from Western Road and Seaward Path.
34. The appellants have provided several examples of large replacement dwellings approved elsewhere in the CA, however I have limited details of what these replaced and the size of their plots. From my observations on site I saw that they were generally set in substantial plots with significant tree cover, and as such were seen in a materially different context to that of the appeal site. Therefore, the approval of large dwellings elsewhere does not justify the scale and site coverage now proposed.
35. The proposed dwelling would incorporate a range of Arts and Crafts style features, and the appellants have provided examples of similar features on other buildings, including several in the local area. While the design of each is different, reflecting the variety possible in the Arts and Crafts style, the examples given are all substantial buildings with tall, relatively steep roofs, meaning that their tall feature gables and bay windows are in proportion with each building. The appeal scheme would however have relatively low eaves and a shallower roof pitch than those examples, giving the building a horizontal emphasis. This would then be interrupted by substantial two-storey bay windows which, due to their size and design, would create a strong vertical emphasis. These windows would be prominent and disproportionately large features on the front and side elevations and due to their size would emphasise the scale of the proposed building and increase its prominence when seen from public viewpoints.

36. Consequently, the proposal would fail to achieve the simple yet elegant proportions and attention to detail that are characteristic of the examples given, and of the other Arts and Crafts style dwellings in the local area which contribute positively to the character of the CA. Therefore, while the design would be less confused than the Appeal A scheme, it would make the proposed dwelling even more prominent in the street scene. The proposal would not therefore achieve the high-quality design required by the LP and the Framework, and would result in a prominent and jarring building which would detract from the character and appearance of the area and the CA.

Trees

37. The proposed dwelling would be sited away from the RPA and canopies of the trees along the boundary with No 18, with no habitable room windows facing them. Consequently, there is unlikely to be any significant pressure to prune them.
38. The proposed dwelling would however have a similar relationship with the trees to the south as the Appeal A scheme. While the appellants suggest that the proposal complies with Building Research Establishment sunlighting and daylighting requirements and British Standards, there is no formal assessment before me to demonstrate this. Given their height, proximity and location, I consider that those trees would shade the front windows, including the first-floor parts of the bay windows, which would be closer to the trees than the equivalent windows in the Appeal A scheme. These would be the sole or main windows to those bedrooms, and as large feature windows occupants could reasonably expect them to provide lots of light into the rooms. The passive solar gain that they are intended to achieve would also be compromised by the proximity of these large trees. Consequently, there is likely to be considerable pressure from future occupants to reduce or remove these trees.
39. Furthermore, as with Appeal A, it has not been demonstrated that no tree works would be required to facilitate construction access. Therefore, cumulatively these factors would be likely to result in a reduction in tree cover along Seaward Path, harmfully altering its secluded character and the wooded character of this part of the CA.

Overall effects on character and appearance and the CA and heritage balance

40. Accordingly, due to its scale, height, design and likely future impacts on surrounding trees, the proposed dwelling would harm the character and appearance of the area and would therefore conflict with Policy PP27 of the Poole Local Plan (LP). It would also result in less than substantial harm to the significance of the CA as a whole.
41. The economic and sustainable design benefits of the proposal would be similar to those for Appeal A and carry limited weight. The proposal would be a bespoke designed dwelling, however I have found that the design would contribute to the harm to the CA, and as such it would not be a public benefit. There would be no demonstrable social benefits from the provision of a larger replacement dwelling, and the proposal would result in environmental harm. I afford the harm to the CA great weight, and it would not be outweighed by the limited public benefits of the scheme. Accordingly, this proposal would also conflict with LP Policy PP30.

Planning Balance and Conclusions

42. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found

that both Appeal A and Appeal B would conflict with LP Policies PP27 and PP30, which are consistent with the Framework. While the proposal would comply with other policies such as for provision for parking and managing flood risk, I consider that the proposal conflicts with the development plan as a whole. Given the importance afforded to high-quality design and conservation of heritage assets in the LP and the Framework, I give this conflict very substantial weight.

43. Both proposals would result in limited economic benefits, no demonstrable social benefits, and environmental harm. As such, neither appeal scheme would be sustainable development as defined in the Framework. Consequently, neither proposal would benefit from the Framework presumption in favour of sustainable development.
44. As part of their appeal submissions both main parties have referred me to other appeal decisions in the same CA. The schemes at 3 Withingham Road and 1,3 and 5 Lindsay Road are however in different Character Areas to the appeal site, each with different plot sizes and dwelling styles, and different guidance in the CAMP. The scale and nature of the schemes in each of those appeals was also materially different to the proposals before me. I have discussed the scheme at 26 Western Road in my reasoning above. Therefore, none of those schemes are directly comparable to Appeal A or Appeal B, each of which I have considered on its own merits.
45. The appellants have also referred me to numerous examples of other replacement or infill dwellings in the local area. However, I have limited information about these schemes and how they came to be permitted, and none have been demonstrated to be comparable to either appeal scheme in terms of their design, scale, or relationship with the plot, neighbouring properties or trees. As such, they do not weigh in favour of either appeal scheme.
46. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I conclude that there are no material considerations that would indicate that either decision should be taken otherwise than in accordance with the development plan. Consequently, both Appeal A and Appeal B are dismissed.

L McKay

INSPECTOR