
Appeal Decision

Site visit made on 2 March 2021

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2021

Appeal Ref: APP/V1260/W/20/3262095

158 East Howe Lane, Bournemouth, BH10 5JG

- 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 Crestland Homes Ltd against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2020-15176-I, dated 10 August 2020, was refused by notice dated 5 October 2020.
 - The development proposed is to erect a pair of detached properties with associated parking.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Crestland Homes Ltd against Bournemouth, Christchurch and Poole Council. This application is the subject of a separate Decision.

Preliminary points of clarification

3. Previous proposals for development on this site - for the demolition of the existing dwelling and garage and the erection of 2 4-bedroom houses with parking; and for demolition of the existing dwelling and garage and the erection of a pair of 3-bedroom semi-detached houses and a 3-bedroom detached house with parking - were refused by the Council in 2019, with both proposals being dismissed on appeal in May 2020¹. A further application for 2 semi-detached dwellings was refused by the Council in January 2020, but was not appealed.
4. The existing dwelling was regarded by the Council as a non-designated heritage asset, and its proposed loss was considered by the Inspector who determined the May 2020 appeals to weigh against the proposals, although he also noted that the Council had separately approved the demolition of this existing house. Following the dismissal of these earlier appeals the house and garage were demolished, and as I saw at my site visit, the site is now vacant.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the street-scene and the surrounding area.

¹ Appeal refs APP/V1260/W/19/3242795 and APP/V1260/W/19/3242802 respectively

Reasons

6. The appeal site lies on the western side of East Howe Lane, close to its junction with Leybourne Avenue. As noted above, the site is now vacant, with the dwelling which existed at the time of the May 2020 appeals having been demolished. This northern part of East Howe Lane has been realigned, such that the appeal site fronts onto part of the old alignment which now just give access to Nos 160, 162 and 164, as well as to the northern part of the appeal site. Bollards prevent this section of old road from being used as a through route.
7. The site is more or less rectangular, with a width of about 19 metres (m) and a depth of some 47m. The eastern part is generally flat, but the site slopes down at its western end, where there are a number of tall, mature trees which are protected by a blanket Tree Preservation Order. I saw at my site visit that the short length of this side of East Howe Lane from Western Avenue to Leybourne Avenue contains a varied mix of dwelling types and styles, with the appeal site being bounded by an older-style pair of extended semi-detached dwellings to the north (Nos 160 and 162), and by a more modern brick-built infill dwelling to the south (No 152).
8. It is clear that this current proposal, which seeks to construct 2 identical 3-bedroom detached dwellings, has sought to address matters raised by the Inspector who determined the 2 appeals in May 2020. Amongst other things, this previous Inspector commented that he found *'no incompatibility between the houses in both schemes and the surrounding development in terms of plot width, front building line, height, form, materials and detailing'*. The appellant regards this as an important observation and comments that it has influenced the design of this current application.
9. In this regard the appellant has retained the broad, overall design and appearance of the previous dwellings, but has reduced their width, has slightly increased the space between the 2 dwellings, to 1.5m, and has noticeably widened the gap between the southern dwelling and No 152, to a fraction over 3m. However, it is unclear to me whether there has been any material change in separation distance between the northern dwelling and the boundary with No 160, which is now shown on the submitted plans as being 1.15m.
10. It was the narrowness of these 'lateral gaps' between the proposed dwellings themselves, and between these proposed dwellings and existing, neighbouring dwellings that the previous Inspector found to be *'uncharacteristically tight'*, in the context of this part of East Howe Lane. In my assessment this would still be the case, notwithstanding the increased separation from No 152. The northern dwelling would sit uncomfortably close to No 160 and the 2 new dwellings would be uncharacteristically close together. Moreover, in my view the dwellings now proposed would be noticeably smaller than the neighbouring properties, giving the impression of having been 'scaled down' simply to fit within the plot, without any particular regard to typical building-to-building spacing.
11. This impression would be reinforced by the noticeably lower eaves heights of the proposed dwellings, when compared to the dwellings either side. I do accept that there are a few other examples along this stretch of East Howe Lane where relatively narrow gaps exist between adjacent properties, but none would be as narrow as would arise with this proposal. Overall the appeal proposal would result in a cramped layout, with these 2 smaller, identical dwellings with their

tight spacing, appearing out of keeping when viewed alongside the generally larger and more disparate dwellings along this stretch of East Howe Lane.

12. This would place the proposed development at odds with a number of development plan policies, cited in the Council's reason for refusal, namely Policies CS6, CS21 and CS41 of the Bournemouth Local Plan Core Strategy, adopted in 2012. In summary, these require new development to assist in delivering sustainable communities and be of good, high quality design that contributes positively to the character and function of the neighbourhood, maintains and enhances the quality of the street scene, and retains and enhances the features that contribute to each place's character and local distinctiveness. The Council also maintains that the proposal would be at odds with Policy 6.8 of the Bournemouth Local Plan, adopted in 2002. Amongst other things, this requires infill residential development to complement and respect the character and amenity of neighbouring development. I explore the weight to be given to these policies, later in this decision.
13. I acknowledge that there is a lengthy planning history to this site, and that a number of proposals for 2 dwellings were granted in the late 1980s and 1990s, including an example from 1998, referred to in the appellant's Appeal Statement along with the approved layout plan. However, there have been a number of changes since that time, not least the fact that No160 to the north has now been extended to sit very close to the common boundary. This has changed the local context, and the fact that the extended No 160 now needs to be taken into account, when considering development proposals for the appeal site, is simply a natural consequence of the evolving nature of areas such as this.
14. It does, however, mean that a reasonable separation needs to be left between any new development on the appeal site, and this adjacent extended dwelling, to ensure that the character of the area is maintained and not unduly harmed. For reasons already set out above, I do not consider that the appeal proposal would achieve the necessary separation, with the consequence that the proposed development would appear cramped on the site, and harmfully out of keeping with the character of the area and the street-scene, as already noted.
15. A second matter of concern to the previous Inspector was the fact that the front garden areas of the proposed properties, in both of the schemes before him, would be dominated by uncharacteristically large areas of hard landscaping for car parking, which he considered would undermine the soft and green character of this section of East Howe Lane.
16. To address this point the northern dwelling is now proposed to have a small green area together with 2 side-by-side parking spaces, accessed from the north along the short stretch of old road; whilst the southern dwelling would have 2 'tandem' parking spaces and a driveway along the south side of the property, allowing more of the front garden area to be planted. These spaces and driveway would take access from the existing, realigned section of East Howe Lane. But notwithstanding these changes, the Council considers that this current proposal would have an excessive amount of front curtilage hard-standing.
17. However, whilst I do not know how this stretch of road appeared back in May 2020, at the time of my March 2021 site visit the front garden areas of Nos 150 to No 164 contained very little planting or greenery, with all except No 160 comprising predominantly hard-surfaced parking areas and areas of bare earth, which also appeared to be used for parking. Whilst not suggesting that these

areas appear attractive, or should necessarily be copied by the proposed dwellings, their presence does make it difficult to be unduly critical of the proposed front garden treatments in the appeal scheme, where front hedging and a reasonable amount of greenery/planting is proposed.

18. But notwithstanding my favourable finding on this latter point, my adverse findings with regards to the proximity of the proposed dwellings to one another, and to 160 East Howe Lane, lead me to conclude, overall, that the proposed development would have an unacceptable adverse impact on the character and appearance of the street-scene and the surrounding area. Because of this the proposal would be at odds with the development plan policies to which I have just referred.

Other matters

19. Financial contribution. The appeal site lies within 5km of a designated Dorset Heathlands Special Protection Area and Ramsar Site, and the Dorset Heaths candidate Special Area of Conservation. In areas such as this the Council has taken the view that the determination of any application for additional dwellings, resulting in increased population and likely increased numbers of domestic animals, should be undertaken with regard to the requirements of the Habitat Regulations 1994. The Council further considers that an appropriate assessment could not clearly demonstrate that there would not be an adverse effect on the integrity of the aforementioned sites, particularly upon bird and reptile habitats within the SSSI.
20. All such applications for additional residential accommodation within the borough are therefore subject to a financial contribution towards mitigation measures towards these designated sites, to be put towards Strategic Access Management and Monitoring, in accordance with a Supplementary Planning Document², prepared with advice from Natural England. No such financial contribution had, however, been received by the time the Council made its decision on this application, and this resulted in a further reason for refusal.
21. In order to address this situation for the consideration of this appeal, I understand that the appellant completed a draft unilateral undertaking (UU), under Section 106 of the Town and County Planning Act 1990, as amended, and submitted it to the Council in mid-December 2020. But for various reasons, this UU was not progressed, and no completed UU was therefore before me at the time of my site visit, or at the time of completing this decision. The securing of an acceptable financial contribution would remove this further objection to the appeal proposal, but as it would simply address the impacts arising from this proposed development, it would not result in any material benefits, or add any weight in the proposal's favour. In these circumstances I see no need to delay my decision to await the securing of the appropriate financial contribution as it would not alter my overall conclusion.
22. Weight to be given to development plan policies. Although I have found this proposal to be at odds with a number of development plan policies, as detailed above, I am also mindful of the fact that the Council cannot currently demonstrate a 5 year supply of deliverable housing land, as required by the National Planning Policy Framework (the Framework), with the latest figures provided showing that it can only demonstrate a supply of 2.9 years. In these

² The Dorset Heathlands Planning Framework 2020-2025

circumstances paragraph 11 of the Framework indicates that the policies which are most important for determining the application have to be considered out-of-date; and that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

23. However, the fact that policies have to be considered out-of-date does not mean that they can carry no weight. To carry weight, policies must be consistent with the Framework, as explained in its paragraph 213 which, amongst other things, explains that the closer the policies in the plan are to the policies in the Framework, the greater the weight that may be given to them. As such, it is perfectly possible for policies which are deemed out-of-date for reasons of an inadequate housing land supply to still carry significant weight. I consider that to be the case here, as the policies cited in the Council's first reason for refusal primarily deal with aspects of high quality design, and ways of achieving it.
24. Such policies accord with the objectives of the Framework, with its paragraph 124 stating, amongst other things, that '*the creation of high quality buildings and places is fundamental to what the planning and development process should achieve*'; and '*good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*'. In summary therefore, despite the policies cited in the Council's first reason for refusal being deemed out-of-date, I consider that they should still all carry significant weight in the determination of this appeal.

Planning balance and overall conclusion

25. In assessing the likely benefits and disbenefits of this proposal I have also considered how it would perform against the objectives of achieving sustainable development, as set out in paragraph 8 of the Framework. The proposal would assist in achieving the economic objective, as there would be some temporary economic benefits arising from the construction of the 2 proposed dwellings, with some more permanent benefits arising from increased spending in the local economy by future residents. However, with a total of 2 dwellings – amounting to a net increase of just 1 dwelling – these benefits would be very modest – as would the simple benefit arising from the increase in the housing stock. Nonetheless, in view of these points the appeal proposal would satisfy the economic objective of sustainable development.
26. The first part of the social objective, as set out in the Framework, is to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Clearly, the provision of new housing would go some way towards satisfying this objective. However, whilst the proposed houses appear to be of good design in themselves, I have already concluded that this would not be a well-designed development in the broader sense, because of the cramped appearance and layout, in the context of this part of East Howe Lane. Accordingly I conclude that the appeal proposal would only partly satisfy the social objective of sustainable development.
27. Part of the environmental objective of sustainable development is to contribute to protecting and enhancing the natural, built and historic environment, including making effective use of land and using natural resources prudently. Insofar as the proposed development would take place on previously developed land it would support this objective, and this would be a benefit of the proposal.

However, I have concluded that the proposed development would fail to provide a high quality design and, accordingly, would have an adverse impact on the character and appearance of the street-scene and the surrounding area. The proposal would therefore fail to protect and enhance the built environment, and this has to be seen as a disbenefit of the proposed development. In view of these points I conclude, on balance, that the proposal would not satisfy the environmental objective of sustainable development.

28. Drawing all the above points together, I consider that whilst the proposed development would give rise to some very modest economic, social and environmental benefits, the failure to fully satisfy either the social or environmental objectives of sustainable development means that this proposal cannot be considered to represent sustainable development. Moreover, I have found that the proposal would not be of a high quality design, but would have an adverse effect on the character and appearance of the street-scene and the surrounding area.
29. In my assessment, these adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. For these reasons, and having had regard to all other matters raised, I conclude that this appeal should be dismissed.

David Wildsmith

INSPECTOR