



Appeal Decision

Site visit made on 28 October 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th November 2021

Appeal Ref: APP/V1260/D/21/3282047
167B Mudeford, Christchurch, BH23 4AG

- 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 and Mrs Moir against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 8/21/0270/HOU, dated 15 March 2021, was refused by notice dated 21 July 2021.
 - The development proposed is side extension comprising of garage with en-suite over. Rear en-suite extension and small balcony to front. Internal remodelling.
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Decision

1. The appeal is allowed and planning permission is granted for side extension comprising of garage with en-suite over. Rear en-suite extension and small balcony to front. Internal remodelling at 167B Mudeford, Christchurch, BH23 4AG in accordance with the terms of the application, Ref 8/21/0270/HOU, dated 15 March 2021, and the plans submitted with it, and subject to the conditions listed below.
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: ASP.20.081.P02; ASP.20.081.P03; ASP.20.081.P04; ASP.20.081.P05; ASP.20.081.P06; ASP.20.081.P07A; ASP.20.081.P08; ASP.20.081.P09; ASP.20.081.P10; ASP.20.081.P11A and ASP.20.081.P12A.
 - 4) The development hereby permitted shall be carried out in full accordance with the recommendations of the submitted Arboricultural Impact Assessment & Method Statement (including Plan TC1) (prepared by Treecall Consulting Ltd), received by the Local Planning Authority on 15 March 2021.
 - 5) The development hereby permitted shall be carried out in full accordance with the submitted Householder Flood Risk Assessment, received by the Local Planning Authority on 15 July 2021.

- 6) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), full plans and details of any new services and soakaways to be installed to serve the permitted development, including an amended Arboricultural Method Statement, shall be submitted to and approved in writing by the Local Planning Authority. The permitted development shall not be carried out otherwise than in accordance with any such approval given.
- 7) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the final design and foundation specification of the permitted side extension, comprising garage with en-suite, including cross sections showing the existing and proposed levels, shall be submitted to and approved in writing by the Local Planning Authority. The permitted side extension shall not be carried out otherwise than in accordance with any such approval given.

Main Issues

2. The main issues are: (a) whether the proposed development would impact on the health and retention of protected trees; and (b) the effect of the proposed development on the character and appearance of the area with particular regard to the appeal site's location within the conservation area and within the setting of nearby Listed Buildings.

Reasons

Impact on protected trees

3. The appeal site lies within the Mudeford Quay Conservation Area (MQCA). The site contains a number of mature trees which are protected by virtue of their location within the conservation area in line with section 211 of the Town and Country Planning Act 1990 (as amended). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 also requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
4. The area to the south of Mudeford, which includes the appeal site, contains a number of older houses, of differing architectural styles, set within spacious grounds, interspersed with more modern development. The appeal site comprises a modern detached two storey property that forms part of a development of three detached houses accessed via a shared private drive from Mudeford.
5. The mixture of old and new houses within this part of the MQCA gives it a distinctive quality. Combined, all of these properties make an important contribution to the special interest of the area. Other qualities that contribute to its special interest are the red brick boundary walls that link the properties and the mature trees within the gardens to those properties. Due to the significant amenity value of these trees, including those on the appeal site, it is essential that new development minimises any threat to their future health.
6. The Council contend that the appeal proposal would result in direct and indirect impacts on the long term longevity and well being of a Horse Chestnut tree,

- located within the rear garden of the appeal site, as well as two Pine trees, located on the eastern boundary of the appeal site.
7. The proposed second floor balcony and rear en-suite extension would not have any impact on the root protection areas of these trees. In relation to the two storey side extension, the submitted plans show that this would be located outside of the root protection areas of the two Pines, but would fall within the root protection area of the Horse Chestnut. Even so, the new extension would replace an existing driveway that the Appellant states has a substantial base and where further excavation would not be required.
 8. There is no substantive evidence before me to dispute the Appellants submission in this respect or that would lead me to conclude that the proposed side extension would impact on the root protection area of the Horse Chestnut or indeed the Pine trees. The consultation response from the Council's Tree & Landscape Officer simply states that there is a lack of detail provided within the submitted arboricultural method statement. However, no further explanation or reasoning for this comment is provided. As to the proposed services and foundations, the Appellant has sought to address these concerns in their Appeal Statement. In view of this and based on the evidence before me, I am satisfied that these are matters that can be controlled by a condition requiring the submission and approval of these details prior to the commencement of development.
 9. The submitted plans show, as I observed on site, that the relationship of proposed development to existing trees would not be materially different to those that currently exist between the host property and the trees. I am also not convinced, from the evidence before me, that the trees would result in any blocked sunlight or storm damage to any of the proposed windows, including the proposed round windows that would serve the new ensuite and dressing room in the new side extension, where both rooms would have the added benefit of light coming in from the proposed rooflights.
 10. Overall and based on the evidence before me, the direct and indirect impacts of the appeal proposal on the protected trees would, in my judgement, be acceptable. As a consequence, the appeal proposal would not, in this respect, have any impact on the character or appearance of the MQCA.
 11. Accordingly, for the reasons given above, I find that the proposed development would accord with policy HE2 and HE3 of the Christchurch and East Dorset Local Plan Part 1 Core Strategy (2014) (CEDLP).

Character and appearance

12. I have already set out above the qualities that contribute to the special character of this part of the MQCA. An extract from the Mudeford Quay Conservation Area Character Appraisal (Appraisal) is reproduced in the Appellant's Statement. The Appraisal states that the area south of Mudeford contains a mix of architectural styles, old and new. There is no uniform character, style or form that prevails or any specific design ethos that new buildings or extensions should follow, which is reflected in the variety of modern development that has already taken place in the area.
13. The existing mature trees and landscaping, combined with the red brick boundary walls with trellis on top, largely preclude views into and out of the

appeal site. Whilst there would be some glimpsed views of the proposed extensions from Mudeford and adjoining gardens, these are not of any notable value or significance, and consequently the proposed development would not result in any harm to the character or appearance of the MQCA. The proposed extensions have been designed to be subservient to the host property and proportional in terms of their scale, and as a result they do not dominate or overwhelm the host property.

14. The integration of the proposed extensions with the host property would be assisted by the use of a pallet of materials to match existing, as well as the fact that the new extensions would sit below the main ridge to the host, and, in the case of the proposed side extension, would be set back from the main front elevation to the existing house. Whilst I accept that the proposed side extension would bring the host property closer to 167A Mudeford (No.167A), there would still remain a reasonably sized gap between the two, which would be further softened by the pitched roof design of the new extension. Other than this, the openness of the appeal plot, including its lawns, landscaping and trees, which all form an intrinsic part of the character of this part of the MQCA, would largely remain as existing and thus unharmed.
15. For the above reasons, I find that the appeal proposal would not have any impact on the streetscene and would preserve the character and appearance of the MQCA.
16. The appeal site also lies within the setting of various Grade II Listed Buildings. Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special regard must be had to the desirability of preserving the setting of these heritage assets. Similar advice is to be found in the Framework. These Listed Buildings are located to the east of the appeal site and include 171, 173 and 175 Mudeford.
17. As I found above, the proposed extensions do not dominate the host property, are proportional and subservient. The proposed side extension would be set back from the main frontage to the host property and further away from the boundary with the Listed Buildings than the main front elevation of the existing house. A reasonably sized gap would be retained between the proposed side extension and No.167A. For these reasons and based on my observations on site, I am not persuaded that there would be any impact on public views or on the permeability between the appeal site and the adjacent Listed Buildings. There would remain views from the rear garden of the appeal site towards the Listed Buildings, albeit this part of the garden is private and is enclosed by a high timber fence with trellis above that limits any such views.
18. Moreover, the appeal proposal, in particular the new side extension, would be set back from the common boundary with the Listed Buildings and would not encroach any closer than the existing house, and would be further separated by the large parking area and shared driveway, as well as boundary treatment and protected trees to the east of the host property. For all the above reasons, the appeal proposal would not, in my judgement, have any impact on the setting of the Listed Buildings and there is no need, therefore, for me to assess the proposal against paragraphs 201 - 202 of the Framework.
19. Accordingly, I find that the appeal proposal would preserve the character and appearance of the MQCA and would not result in any impact on the setting of the Listed Buildings, and would thus be in accord with policy HE1, HE2 and KS1

of the CEDLP, saved policy BE4 and BE15 of the Borough of Christchurch Local Plan (2001) and the corresponding policies of the Framework.

Other Matters

20. Concerns have been raised by interested parties in relation to overlooking from the proposed balcony. As well as viewing the adjoining properties from the location of the proposed balcony within the host property, I also viewed the new balcony from the properties to the east and west of the appeal site. Based on those observations, I am satisfied that the proposed balcony would not, compared to the views that already exist from the upper floors of the host property, result in any harmful increase in overlooking. This finding is consistent with that reached by the Council, who did not raise this as an issue in their reasons for refusal.

Conditions

21. The Council has suggested various conditions which I have considered against the advice in the Framework and the Planning Practice Guidance chapter on the use of planning conditions. Conditions requiring compliance with the submitted plans and for materials to match existing, are necessary and reasonable in order to secure a high-quality development. I have, however, added a list of approved plans.
22. A condition requiring compliance with the submitted Flood Risk Assessment is necessary to mitigate for any potential flood risks. Conditions requiring the submission and approval of details of any services to be installed and of the design of the foundations to the proposed development are also necessary and reasonable to ensure that any threat to the future health of the protected trees is minimised and that there is an agreed method statement for undertaking those works. I have, however, modified the wording and instead of a condition requiring a site visit, added a condition that the development be carried out in full accordance with the recommendations of the submitted arboricultural assessment.
23. The Council also suggested a condition requiring approval of the design of the proposed balcony, but have provided no reasoning for this. The design of and materials to be used in the construction of the balcony are shown on the submitted plans and on the Application Form and are, in my view, acceptable. This condition is not, therefore, necessary or reasonable.

Conclusions

24. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR