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## Appeal Decision

Site visit made on 8 November 2021

**by Robert Parker BSc (Hons) Dip TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 December 2021**

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**Appeal Ref: APP/V1260/W/21/3278866**

**46 Kimberley Road, Bournemouth BH6 5BX**

- 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 Terry Williams of Dove Developments (Southern) Limited against the decision of Bournemouth, Christchurch and Poole Council.
  - The application Ref 7-2020-3834-H, dated 19 November 2020, was refused by notice dated 5 March 2021.
  - The development proposed is demolish existing garage and construct a 2 bedroom residential dwelling to rear of 46 Kimberley Road.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The submitted floor plans and elevations are inconsistent in relation to the fenestration on the south-east elevation of the proposed dwelling. The appellant has supplied an amended plan which corrects the error and deletes a first floor window on the south-west elevation. I am told that the neighbours have been given the opportunity to comment. No party would be prejudiced if I were to determine the appeal against the revised plans. I have proceeded on that basis.
3. Subsequent to the Council's decision, a revised National Planning Policy Framework ('the Framework') was published. The parties have had an opportunity to comment on the implications for the appeal.
4. The appellant has supplied a completed unilateral undertaking which secures a contribution towards Strategic Access Management and Monitoring in line with the Dorset Heathlands Planning Framework 2020-2025. These monies would be spent on projects to mitigate the adverse impact of the development on the integrity of the Dorset Heathlands European sites. The Council has confirmed that its objections in this regard have been satisfactorily addressed.

### Main Issues

5. The main issues are:
  - a) the effect of the proposal on the character and appearance of the area;
  - b) the effect on the living conditions of the occupiers of Nos 46, 48 and 50 Kimberley Road, with regard to external amenity space and privacy;

- c) whether the development would provide satisfactory living conditions for its occupants in relation to privacy within the garden;
- d) whether the scheme makes adequate provision for surface water drainage; and
- e) the effect of the proposed parking arrangements on highway safety.

## **Reasons**

### *Character and appearance*

6. The appeal site lies within a predominantly residential area which is mainly comprised of detached houses laid out in a grid pattern of streets and set within good sized plots. Most properties have long rear gardens which back onto one another, or in some cases onto rear service lanes. There is some variety in architecture in the area, but this particular stretch of Castlemain Avenue, onto which the proposed dwelling would face, is characterised by period properties with double-height bays beneath projecting roof gables.
7. The proposed dwelling would be sited to the rear of 46 Kimberley Road, with a service lane separating it from 49 Castlemain Avenue. In terms of plot width and spacing, it would not be out of keeping with the street scene of Castlemain Avenue. However, the plot would be much shallower than is generally the case with others in the locality, and the dwelling would be abnormally close to the rear boundary. This would be very noticeable from adjoining properties and from the rear lane.
8. The appellant cites examples at 45 and 47 Kimberley Road, 23 Shelton Road and 70 Beaufort Road where development has taken place on shallow plots. It is contended that this has not had a strong impact on the character and appearance of the locality. That may be so insofar as the street scene is concerned, but the plot sizes and layouts in those examples do not reflect the prevailing character of the residential neighbourhood. I do not know the full background to the cases presented, but they do not persuade me that the appeal scheme is acceptable.
9. The forward-facing gable of the new dwelling would be flat fronted. There is no reason why the design could not have incorporated a double-height bay window which is a characteristic feature of properties in the area. This represents a missed opportunity to achieve good design which better respects its context. The Council has raised an issue with the choice of roof materials, but this could be addressed through a condition in the event of permission being granted.
10. The Council has raised a number of other concerns relating to the creation of an opening in an existing wall to serve a new parking space, and arrangements for the storage of refuse and recycling. It seems to me that neither would be particularly problematic in street scene terms, and I noted that the wheelie bins for the flats in No 46 are stored behind the front boundary wall without affecting car parking. A bin enclosure could be secured by condition.
11. The scheme would deliver visual benefits by removing the unattractive concrete block wall along two boundaries and masking discordant roof alterations at 49 Castlemain Avenue. However, these benefits do not outweigh the harm to the character and appearance of the area arising from the limited plot depth and poor design. There would be conflict with Policies CS20, CS22 and CS41 of

the Bournemouth Local Plan Core Strategy (2012) (CS) and Policy 6.8 of the Bournemouth District Wide Local Plan (2002) (LP). These policies are consistent with the Framework in requiring good design which is sympathetic to local character, including in respect of matters such as layout and density.

#### *Living conditions of neighbours*

12. The proposed dwelling would occupy an area shown as communal garden on the plans approved when 46 Kimberley Road was subdivided into flats. However, at the time of my site inspection the land was being used as garden and parking for Flat 2. The sole entrance door for this ground floor property faces onto the site, together with a window serving the main bedroom. The proposal would leave Flat 2 with a narrow strip of land alongside the building and a small area of land adjacent to a proposed parking space, neither of which would provide useable amenity space.
13. It is contended that the Council has no minimum garden standards for flats. Nonetheless, there can be no question that the current arrangement, which includes a good-sized area for sitting out, contributes to the health and well-being of the occupiers of Flat 2. Its loss as a consequence of the proposed development would represent a significant diminution of the living conditions of those residents.
14. The omission of the window on the south-west flank of the proposed dwelling addresses the Council's concerns regarding overlooking of an existing first floor window in the upper floor flat of No 46. The stairwell window on the south-east elevation could be obscurely glazed to prevent overlooking of the rear gardens to 48 and 50 Kimberley Road. Notwithstanding this, the window to Bedroom 2 would enable occupants of the dwelling to look down into adjoining gardens. The window would be close (circa 4 m) to the boundary and its presence would be intrusive. There would be a perception of being overlooked and this would reduce the neighbours' enjoyment of their gardens to an unacceptable degree.
15. I conclude that the proposal would have an unacceptable adverse impact on the living conditions of the occupiers of Nos 46, 48 and 50 Kimberley Road by reason of loss of privacy and amenity space. There would be a conflict with CS Policies CS5, CS22 and CS41 and LP Policy 6.8. These are consistent with the Framework in promoting healthy communities and seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.

#### *Quality of future living environment*

16. The Council does not object to the size of the rear garden for the proposed dwelling, on the basis that it would be adequate to meet the needs of a small family unit. Its concern relates to the level of privacy the garden would provide. First floor windows in Nos 46, 48 and 50 Kimberley Road would have an outlook across the entire garden. A degree of mutual overlooking of gardens is common within built-up areas, but in this case the views would be direct in nature and at close range. This would compromise the quality of the external amenity space. There would be conflict with the requirement of LP Policy 6.8 that development should provide a pleasant and safe residential environment and the stipulation of Policy CS41 that development should provide a high standard of amenity to meet the day to day requirements of future occupants.

### *Surface water drainage*

17. The policy expectations in relation to drainage are set out in CS Policy CS4. This states that the design and layout of all new buildings, and the development of car parking and hard standing, will incorporate appropriate Sustainable Drainage Systems (SUDS) capable of ensuring that the level of surface water leaving the site is no greater than that prior to the development, and ensuring the quality of local water. The use of SUDS is a requirement other than in exceptional circumstances where no technical solution is available.
18. The appellant invites me to deal with the matter by means of a Grampian planning condition. However, Policy CS4 requires details of the proposed SUDS to be submitted as part of any planning application. There is a note on the submitted plans to indicate that there would be no further surface water run-off from the site as a result of the development. Reference is made to the use of an attenuation tank but I have been given no information on the size or location of the tank, or any analysis of the current drainage arrangements. There is no correspondence from the water authority to confirm agreement in principle that its infrastructure can accommodate the attenuated discharge.
19. In the absence of further information, I find that the proposal does not demonstrate adequate provision for surface water drainage in accordance with CS Policy CS4. This weighs against the proposal.

### *Car parking*

20. The proposal provides a single car parking space for the new dwelling, together with a space for Flat 2, to replace that which would be lost as a result of the development. The two existing spaces at the front of 46 Kimberley Road would be unaffected. The Local Highway Authority raises no objection to the overall level of parking, which equates to one space per dwelling; its concerns relate to the design of the proposed parking and the implications for highway safety.
21. The Council's design requirements are set out in its Parking Standards Supplementary Planning Document (2021) (SPD). This was subject to public consultation in accordance with the regulations<sup>1</sup> prior to adoption and therefore I have attached its provisions significant weight. The SPD explains that the minimum length of a parking space is 4.8 m, but this figure will need to increase if the space is next to a wall and/or the back of an adjacent footway, to ensure usability and to prevent vehicles overhanging the parking bay.
22. The parking space for the proposed dwelling would be sandwiched between the back edge of the footway and the building itself. The position of the front door means that vehicles would be unlikely to use the full length of the space. In practice, a buffer would be required to provide access to the dwelling and this would reduce the space available for parking. At 5.036 m long, the space would fall 264 mm short of the required dimension set out in the SPD. The inability to park 'flush' against the building would result in larger vehicles overhanging the footway and pedestrians having to divert onto the grass verge. This would be detrimental to the safety and convenience of footway users.
23. The replacement parking space would be set at an angle to the pavement in a similar manner to echelon parking. This conflicts with the SPD which explains at paragraph 3.2.19 that vehicle crossovers must be perpendicular to the

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<sup>1</sup> The Town and Country Planning (Local Planning) (England) Regulations (2012)

footway, partly to ensure that motor vehicles cannot drive along the footway in order to gain illegal access to a property but also to maximise pedestrian visibility. Although the proposal is to retain a low boundary wall either side of the entrance, I am minded to agree with the Local Highway Authority that driver visibility of pedestrians and vehicles would be more difficult when reversing from an angled space due to the sight lines being obscured. This would increase the potential for conflict between highway users.

24. I conclude that the proposal would make substandard provision for on-site car parking and this would lead to unacceptable impacts on highway safety. There would be conflict with CS Policies CS16, CS18 and CS41 and LP Policy 6.8. These seek to ensure, amongst other things, that new development accords with the Council's adopted parking standards (which includes qualitative aspects) and does not compromise existing walking networks.

### **Planning Balance and Conclusion**

25. The Council concedes that it is unable to demonstrate a five year supply of deliverable housing sites, but does not provide an up-to-date supply figure. For the purposes of this appeal, I shall assume that the shortfall is significant. Paragraph 11 d) of the Framework states that in such circumstances such as this, where the requisite supply cannot be demonstrated, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or ii. 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. The proposal does not affect areas or assets of particular importance and therefore it is the second limb which applies in this case.
26. The appeal scheme would conflict with development plan policy in respect of the character and appearance of the area, the effect on the living conditions of neighbours, the quality of the future living environment, surface water drainage provisions and car parking arrangements. The combined adverse impacts would significantly and demonstrably outweigh the very modest social and economic benefits of delivering one small family dwelling, notwithstanding the identified need for such homes and for wider housing delivery.
27. For the reasons given above I conclude that the appeal should be dismissed.

*Robert Parker*

INSPECTOR