
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

Appeal Ref: APP/V1260/W/20/3265717

96 and 98a Malvern Road, Bournemouth BH9 3DE

- 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 Calendula Assets t/a DWP Housing against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2020-21703-B, dated 20 May 2020, was refused by notice dated 30 September 2020.
 - The development proposed is demolish existing buildings and outbuildings, erect semi-detached dwelling and detached block of 5 apartments, with associated car parking, bin store, bicycle store and car port.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Subsequent to the Council issuing its 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.
3. The application form references the site as 96 Malvern Road, but the red line boundary also includes 98a Malvern Road. I have used the site address from the decision notice as it is more accurate.
4. The above description of development is taken from the application form, but for clarity I should explain that the plans show the provision of not one semi-detached dwelling, but a pair of semi-detached dwellings.
5. The Council made its decision based on amended plans which were submitted during the application process. My determination is made on the same basis. The relevant plans are listed on the decision notice.
6. 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 Special Protection Area, Ramsar Site and Dorset Heaths Special Area of Conservation. This satisfactorily addresses the Council's objections in relation to the effect of the proposal on European sites.

Main Issues

7. The main issues are:

- a) the effect of the proposal on the character and appearance of the area; and
- b) the effect on the living conditions of neighbouring occupiers, with particular regard to outlook, sunlight, noise and disturbance.

Reasons

Character and appearance

- 8. Malvern Road has an eclectic character, comprising a mix of bungalows and houses of differing age and architectural style. The appeal site is presently occupied by a pair of detached properties, a two-storey Victorian style villa (No 96) and a modern bungalow (No 98a). Although there is wide variety in the appearance of buildings along this stretch of Malvern Road, they are generally modest in scale, commensurate with the local residential character.
- 9. The proposal is to replace No 96 with a pair of semi-detached houses and No 98a with a block of 5 apartments. The scheme would respond positively to the prevailing building line on this side of Malvern Road. The new houses would align with 94 Malvern Road to the west and the apartments would step back to respect the positioning of 100 and 102 Malvern Road. Both buildings would have modest eaves heights and they would give the impression of being two-storey, despite the apartment block having a unit of accommodation within the roof.
- 10. The ridge heights of the buildings would be compatible with the surrounding area, although the same cannot be said of the built footprints. The houses would have greater depth relative to the dwelling they are replacing, but I consider the mass to be within acceptable limits. The apartment block, on the other hand, would extend into the site by approximately 18 metres. The rearmost section would be single-storey with a flat roof, but this would not mitigate for the excessive depth. The scale and bulk of the apartment block would dominate adjacent properties to the east and it would be at odds with the established character of moderately sized houses and bungalows.
- 11. It is contended that the proposal has addressed the concerns of an Inspector who dismissed an appeal¹ relating to a scheme of 4 flats on the site of No 98a. The appellant has pushed the apartment block further into the site, thereby reducing the prominence of the development on the approach along Malvern Road from the east. However, this would not disguise the depth of the building in closer views. The development would be nearer to the rear site boundary relative to the dismissed scheme and the falling ground levels would emphasise the disproportionate scale.
- 12. I note that there have been changes to the street scene since the last appeal, with the erection of a new flatted block at 108 Malvern Road. However, the size of that building is more modest, particularly in terms of the depth of its flanks which are more reflective of adjoining residential properties. That development is not directly comparable to the appeal scheme and does not justify a building of the scale being proposed.

¹ APP/G1250/A/05/1186589

13. Accordingly, I conclude that the proposal would cause material harm to the character and appearance of the area. There is conflict with Policies CS21 and CS41 of the Bournemouth Local Plan Core Strategy (2012) (CS) and Policies 6.8 and 6.10 of the Bournemouth District Wide Local Plan (2002) (LP). These are consistent with the Framework in seeking to secure good design which is sympathetic to local character, including the surrounding built environment.

Living conditions of neighbours

14. The proposed houses would be roughly 1 metre from the boundary with 94 Malvern Road and they would extend well beyond the rear wall of that property. The height and proximity of built form would be overbearing for the neighbours and it would impact upon levels of morning sunlight reaching their patio.
15. The new apartment block would be substantially taller and bulkier than the bungalow it would be replacing, and it would be set deeper into the plot. Comparison with the plans for the dismissed appeal suggests that the building would be closer to the side boundary relative to that scheme, and it would extend further into the site. The previous Inspector opined that the proposal before them would lead to extensive overshadowing of the garden belonging to 100 Malvern Road, significantly limiting its enjoyment. In my opinion, the same conclusion applies here.
16. Four parking spaces would be provided on the street frontage. However, an access between the proposed buildings would serve an extra five parking spaces at the rear of the site. There would also be a bin and cycle store in this area. The rear parking spaces would be close to the gardens to Nos 94 and 100 Malvern Road, and also bungalows on Moorvale Road which sit at a much lower level. The latter properties have short gardens and therefore residents use their external amenity spaces in close proximity to the appeal site.
17. The previous appeal scheme also proposed parking at the rear of the site. The Inspector in that case concluded that use of vehicles would result in noise and disturbance such as car doors slamming, engines starting and cars manoeuvring. The cycle store and bin collection area were considered to be an additional source of noise and disturbance. The plans before me are laid out slightly differently, but the impacts would be directly comparable. If anything, the harm would be greater as the layout shows a fifth parking space which would incrementally increase comings and goings. The introduction of vehicular activity into what is presently a tranquil area would be detrimental to the peaceful enjoyment of adjoining gardens.
18. The appellant cites developments at 103 Evelyn Road and 106 Malvern Road where rear parking has been approved. However, I do not know the background to those schemes and their existence does not persuade me that the proposal is acceptable in terms of its effect on neighbouring residents.
19. I conclude that the proposal would have a significant and unacceptable adverse impact on the living conditions of neighbouring occupiers by reason of loss of outlook, overshadowing of gardens and noise and disturbance. Consequently, there is conflict with CS Policies CS21 and CS41 and LP Policies 6.8 and 6.10. These are consistent with the Framework in seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.

Planning Balance and Conclusion

20. The Council concedes that it is unable to demonstrate a five year supply of deliverable housing sites. The current supply is calculated to be 2.9 years and this is common ground between the parties. Paragraph 11 d) of the Framework states that where the requisite land 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.
21. The proposal would make effective use of previously developed land to provide new homes in an accessible location. In this way, it would make a modest contribution to remedying the acute housing shortfall within Bournemouth. The scheme would provide a small boost to the economy during construction and thereafter through spending in local businesses and Council receipts. Against those benefits I must balance the harms. The scheme would conflict with the development plan in respect of the character and appearance of the area and its effect on the living conditions of neighbours. These adverse impacts would significantly and demonstrably outweigh the social and economic benefits, notwithstanding the considerable weight that must be attached to housing delivery. As such, the proposal does not constitute sustainable development.
22. The proposal conflicts with the development plan taken as a whole and there are no material considerations of such strength or significance as to justify a decision otherwise than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR