
Appeal Decision

Site visit made on 10 May 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2022

Appeal Ref: APP/V1260/W/21/3289430

Land adjacent to 90 Glenferness Avenue, Bourmemouth BH3 7EY

- 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 J Falla and Ms L Kuhnert against the decision of BCP Council.
 - The application Ref 7-2021-19809-D, dated 19 August 2021, was refused by notice dated 2 November 2021.
 - The development proposed is erection of a dwelling house and formation of vehicular access and parking spaces.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the appeal scheme on the character and appearance of the Talbot Woods and Meyrick Park Conservation Area (the TWMPCA); and
 - The effect of appeal scheme on the integrity of the Dorset Heathlands SPA, Ramsar Site and Dorset Heaths SAC (the European sites).

Reasons

Character and appearance

3. The appeal site lies within an established residential area to the northwest of Bournemouth town centre and within the TWMPCA. The triangular-shaped plot lies at the corner of Glenferness Avenue and Elgin Road, having road frontages onto both streets. It forms part of the garden of 90 Glenferness Avenue, which is a large detached house, which fronts onto, and is accessed from, Glenferness Avenue.
4. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended (the Act) requires that with respect to development affecting buildings or other land in a conservation area, 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'
5. The significance and character of the TWMPCA is set out in the *Meyrick Park and Talbot Woods Conservation Area Appraisal* (2009) (the Conservation Area Appraisal). This identifies the conservation area as being relatively quiet, and almost totally comprising residential properties. Most of these are detached

two-storey buildings, used as, or having the appearance of, single family dwelling houses.

6. The properties are described as being well-designed, and set within spacious, well-planted and established gardens, with an abundance of mature trees and shrubs providing an attractive setting for the buildings, and contributing to a prevailing leafy suburban character.
7. Predominantly spacious plots are of a relatively uniform size and layout, with most properties having regular front and rear building lines, and houses tending to be set back from the front boundary, with generous front gardens, and set in from their side boundaries.
8. The Conservation Area Appraisal explains that the TWMPA evidences the various phases of prosperous middle class residential development during the growth of Bournemouth, including Victorian, Edwardian, pre-war and post-war development. The appeal site lies within an area dating back to the 1920s inter-war years, where houses are still substantial in size and set within appreciably large gardens, which are well-planted with trees and shrubs.
9. The Conservation Area Appraisal identifies potentially harmful impacts on the conservation area arising from redevelopment pressures involving plot subdivision and associated plot size reduction, particularly on corner sites. Post-war infill is identified as resulting in smaller plot sizes and a more compact and congested appearance that erodes the spaciousness of the conservation area.
10. The Conservation Area Appraisal notes that the relatively large plots associated with houses characterise the conservation area, allowing for the growth and retention of tall substantial trees and hedges, which dominate the street scene and play an important role in contributing to the attractive visual quality of the area. Planting within residential curtilages is also complemented by a large amount of vegetation and trees along the roadsides, the greatest amount of which aligns the main roads within the conservation area, which include Glenferness Avenue.
11. The appeal site occupies a significant and visually prominent position within the TWMPA, given its location fronting onto Glenferness Avenue, which is one of the key distributor routes through this residential area. It is also sited at a prominent corner location near a main entrance into the conservation area. The soft landscaped appeal site, together with front and side gardens of nearby similarly shaped corner properties in Elgin Road, Roslin Road South and Glenferness Avenue, and highway verge trees and landscaping, all combine to form a notable green focal point within the townscape, which makes a positive contribution to the street scene.
12. The host property is set within a large plot with a maturely landscaped garden, a significant proportion of which comprises the appeal site, located to the north side of the house, where the plot tapers in width towards the road junction. The building comprises a large, detached, two storey dwelling with red brick walls under a tiled hipped roof. It dates back to the 1920s and is identified in the Conservation Area Appraisal as a positive contributor to the special interest of the conservation area in terms of its form, features and characteristics which define the period from which it dates.

13. As such, the site of No.90 as a whole, including the appeal site, typifies the original pattern of development within this part of the TWMPCA in terms of the building and its surrounds, positively contributing to the characteristics which are intrinsic to the spacious, leafy, inter-war era residential development. The proposal to build upon the appeal site, as a result of the design and siting of the development, would detrimentally erode this site character to the detriment of the visual amenities of the locality.
14. I acknowledge the appellants' stated intention to use the architectural style of the host dwelling to inform the design of the proposal, including the inclusion of period detailing within the new building. However, I find that the proposed building design, which includes chalet bungalow style design references, combined with its roof form, height and scale, would be out of keeping with the typically large, two-storey-plus-roof height dwellings which prevail within the vicinity of the site, and are representative of the significance of this part of the conservation area. The proposed eaves and ridge heights would be lower than, and the new building would appear notably smaller in scale than, neighbouring dwellings, particularly in relation to No.90 within whose close proximity it would be sited and within whose context it would be viewed from the public realm, notably in views from Elgin Road.
15. The new dwelling would result in the creation of a plot which would be distinctly smaller than those which typify the original development of this part of Glenferness Avenue. This, combined with the proposed position of the new dwelling, would result in an unduly cramped layout of built development on both the appeal site and that remaining for the host property, due to the tapering nature of the land. This would arise from a combination of the loss of a significant part of the side garden to No.90, which plays an important role in providing spacious surroundings to that property, and from the proposed proximity of the new building to No.90 and to both road frontages.
16. This would be particularly noticeable in respect of the proposed Elgin Road building frontage, where perpendicularly arranged parking would extend to within close proximity of the front of the building and the back of the footpath, in a congested arrangement that would be out of keeping with the more roomy driveway and parking arrangements that are representative of the original layout of development within the area. This harm is not justified by the resulting visual break in the existing length of boundary fencing, particularly since it would also result in the removal of mature boundary planting.
17. The result would be an incongruous layout of development that would bring built development closer to, and more visually apparent in relation to, the back of the public footpath than is characteristic of the more set-back existing building frontages within these roads, where buildings tend to be recessive in views from the street in relation to frontage landscaping.
18. It would also result in a visually discernible erosion of the aforementioned green focal point of landscaping and trees within this part of Glenferness Avenue. Whilst the existing house is larger and higher, it is set back sufficiently so as not to be visually imposing within the street scene. Moreover, the parts of the building which are visible from the public realm do not detract from the visual amenities of the area, given that the existing building is identified as a positive contributor to the conservation area in respect of its design.

19. Notwithstanding its lower height than the host property, the proposed building would be apparent within the street scene above the boundary hedging. It would appear discordant in relation to the host property, harming its setting and diminishing its visual significance within the conservation area.
20. I note the intention to plant new landscaping within the appeal site, including new large standard boundary trees. However, I do not consider it appropriate to rely upon the provision and future maintenance of sufficiently high boundary landscaping to screen new built development of an inappropriate design and layout for its surroundings.
21. The result would be an incongruous and congested form of development which would harmfully undermine the prevailing character of this part of the conservation area which comprises large properties, set within spacious plots, and where landscaping dominates the street scene.
22. For the above reasons, the proposal would harm the character and appearance of the TWMPA. It would harm its significance as a heritage asset. As such, the appeal scheme would not accord with Policies CS21, CS39 and CS41 of the *Bournemouth Local Plan: Core Strategy* (2012) (the Core Strategy), Saved Policies 4.4 and 6.8 of the *Bournemouth District Wide Local Plan* (2002) and the Conservation Area Appraisal. These policies and guidance, amongst other things, seek to ensure that development proposals comprise high quality design and protect the significance of designated heritage assets. This includes requiring new residential development to maintain and enhance the quality of the street scene, and, through its scale, density, layout, siting, character and appearance, respect the site and its surroundings, and for development within conservation areas to preserve or enhance the character or appearance of the area, including having regard to the retention of the original building plots where their relationship with the pattern of development and other plots makes a contribution to the character or appearance of the conservation area.
23. For similar reasons, the proposal would also be contrary to Policies of the *National Planning Policy Framework 2021* (the Framework) which seek to achieve well-designed places and conserve and enhance the historic environment, as set out in Chapters 12 and 16 respectively.
24. In coming to the above conclusion, I have had regard to a previous dismissed appeal¹ in respect of the appeal site, and I concur with the previous appeal Inspector's assessment of the character of the site and the locality, which I do not find has altered significantly since the date of that decision.
25. The current proposal is for a new dwelling in a similar position to that previously proposed. Whilst the current appeal scheme relates to a dwelling which is smaller in scale, height, massing and footprint to that previously proposed, and would not extend as close to the street frontages of the appeal site, these factors do not alter my above conclusions in respect of the current scheme. Moreover, I find that the current changes to the proposed building design and scale have introduced an additional discordant element within the conservation area, as detailed above, in respect of the character of the building compared with the larger houses that are typical of this part of Glenferness Avenue.

¹ APP/G1250/A/06/2009759/NWF

26. Whilst the previous decision predated the adoption of the Core Strategy and the Framework, the thrust of development plan policies and national planning policy in respect of the protection of heritage assets has not significantly altered since the date of the appeal. I therefore afford weight to this decision in my determination of the current appeal.
27. I have noted that the dismissed appeal decision also predates a more recently allowed appeal² in relation to 49 Elgin Road. I have also taken account of this decision, given the proximity of the site to the current appeal site and the similar issues raised. Whilst this development has resulted in a smaller plot than many others nearby, I find that there are notable differences between the scheme details and site circumstances in relation to that appeal and those of the current appeal.
28. Most notably, the site context differs in terms of being sited within an established line of properties, with a single frontage onto Elgin Road, and in a less visibly prominent or sensitive location within the conservation area. Also, the dwelling design and scale, and degree of set back from the site frontage is more reflective of that of its neighbours than is the case with the current appeal scheme. As such, notwithstanding its plot size, that scheme does not appear harmfully incongruous in relation to the group of properties within which it is sited, and does not demonstrably harm the verdant, spacious street character within the immediate locality. Therefore, this decision does not justify or outweigh the harm I have identified in respect of the current appeal scheme.
29. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. Paragraph 200 of the Framework states that any harm to, or loss of, significance of a designated heritage asset should require clear and convincing justification.
30. With regard to Paragraph 202 of the Framework, the harm to the conservation area would be no greater than 'less than substantial'. Less than substantial harm does not equate to less than substantial planning objection, and the Framework sets out the need to address the 'less than substantial harm' against the public benefits of the scheme.
31. The additional dwelling would make a small contribution towards the supply of housing. There would also be economic and social benefits resulting from the construction and occupation of the dwelling. It would be located in an accessible location within the settlement boundary, as such it is close to community facilities and services and public connections. However, whilst these matters attract weight as public benefits, they do not outweigh the less than substantial harm to the designated heritage asset of the TWMPA.

European Sites

32. The Council's second reason for refusal relates to the failure of the proposal to secure avoidance/full mitigation of the likely significant effects from recreational pressures that the Council considers the proposed additional residential dwelling, in combination with other dwellings proposed near to the European sites, would have on the integrity of the European sites, particularly upon bird and reptile habitats within the SSSI.

² APP/G1250/W/17/3173672

33. The site is within 5km but outside 400m of the European sites. Natural England is concerned about the intensification of residential development in South-East Dorset, and the resultant pressures upon protected Heathland by the new occupants of these dwellings living in close proximity to such areas. Studies have shown that increased access to lowland heathland from nearby development leads to an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets. It is the view of Natural England that within 5km of Heathland, there will be significant adverse effects in combination with other proposals. However, avoidance or mitigation measures, including access management measures to divert recreational pressure from heathland can allow development to be permitted.
34. Mitigation is covered by a combination of Community Infrastructure Levy payments towards infrastructure projects, and financial contributions towards Strategic Access Management and Monitoring (SAMM) in accordance with the Council's mitigation strategy as set out in the and the *Poole Harbour Recreation 2019-2024 Supplementary Planning Document* (2020).
35. This has led the Council, along with others in the area, producing the *Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document* (2020) (the DHPF), which includes an Avoidance and Mitigation Framework Strategy and Strategic Access Management and Monitoring requirements. This is in line with Policy CS33 of the Core Strategy. The Council has carried out an Appropriate Assessment (AA) under the Habitats Regulations, concluding that adverse effects on the designated nature conservation sites would be avoided if a financial contribution in accordance with the requirements of the DHPF were to be made.
36. Since the refusal of the planning application, the appellant has provided a signed and dated Section 106 Unilateral Undertaking (UU) that secures such payment. This was sent to the Council after the appeal was lodged and the Council has not yet commented upon it.
37. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated sites fall to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further and to undertake an AA of the implications of the appeal scheme for the European designated sites.
38. However, as the first main issue provides clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision, since any findings on this issue would not change the appeal outcome.

Other matters and planning balance

39. The Council has confirmed that it cannot demonstrate a 5-year supply of deliverable housing sites as required by the Framework. The information before me is that the undersupply is acute, comprising 2.3 years of deliverable housing land supply. As such, Paragraph 11 of the Framework applies, which sets out that decisions should apply a presumption in favour of sustainable development. Where relevant policies for the supply of housing are not

considered up to date, including where a 5-year housing land supply cannot be demonstrated, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, referred to in Paragraph 11d)i, provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted.

40. In this instance, the appeal site is subject to policies in the Framework that seek to protect designated heritage assets, and, given my conclusions in respect of the first main issue, these provide a clear reason for refusing the development. As such, the presumption in favour of sustainable development in Paragraph 11 of the Framework is not engaged.
41. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be within a designated settlement policy boundary where access to facilities and public transport connections is likely to be greatest. It would make a small contribution towards addressing the housing supply deficit, and it could be built-out relatively quickly, having regard to paragraph 69 of the Framework.
42. However, a high standard of design is also a key aspect of sustainable development. The harm I have identified to the character and appearance of the conservation area would be significant. As a result, the social objective of sustainable development of fostering well-designed and beautiful places, would not be achieved
43. Whilst the Framework encourages the effective use of land in meeting the need for homes, and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified, and would not address or outweigh the aforementioned harm that I have identified in respect of the first main issue.
44. The Council has not identified any harm in respect of other issues, including the impact on neighbouring living conditions, the living conditions of future occupiers of the new dwelling, highway safety, parking, tree impacts and biodiversity. In terms of the planning balance, the lack of identified harm is a neutral factor that does not diminish the significant harm that would arise from the proposal in respect of the character and appearance of the TWMPCA.

Conclusion

45. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits, and the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.
46. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR