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# Appeal Decision

Site visit made on 7 March 2022

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

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

**Decision date: 17 June 2022**

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**Appeal Ref: APP/V1260/W/21/3280765**

**261-263 Windham Road, Bournemouth BH1 4RE**

- 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 A Lewer of UP Construct Ltd against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref 7-2021-27832-B, dated 4 May 2021, was refused by notice dated 22 July 2021.
  - The development proposed is alterations and erection of a two storey side extension to form a new residential dwelling.
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## Decision

1. The appeal is allowed and planning permission is granted for alterations and erection of a two storey side extension to form a new residential dwelling at 261-263 Windham Road, Bournemouth BH1 4RE in accordance with the terms of the application, Ref 7-2021-27832-B, dated 4 May 2021, subject to the conditions set out in the attached schedule.

## Procedural Matters

2. The site is described on the application form as 261-263 Windham Road but I note that No 261 does not exist as a separate residential address. The proposed dwelling would be created by demolishing a detached garage and outbuilding and extending at the side of No 263.
3. The scheme was amended during the application process. The Council made its decision against the amended plans, as listed on the decision notice, and I have determined the appeal on the same basis.
4. The appellant has submitted a signed and witnessed unilateral undertaking (UU) which secures a contribution towards measures aimed at mitigating the adverse impacts on the Dorset Heathlands European protected sites. I shall return to this later in my decision.
5. Following the Council's decision, Natural England updated its advice in relation to nutrient level pollution in a number of existing and new river basin catchments. Bournemouth Christchurch and Poole Council has been previously identified as an affected local planning authority. Natural England has confirmed that waste water from the proposed development would discharge into the river Stour catchment. This is outside of the catchment of the Poole Harbour Special Protection Area and Ramsar site and as such the proposal is unlikely to have any significant impact on this European protected site.

## **Main Issue**

6. The main issue is the effect of the proposal on the character and appearance of the area.

## **Reasons**

7. Windham Road contains an eclectic mix of dwellings and it is evident from the wide variety of architectural styles that the street has been the subject of continuous change. No 263 Windham Road lies at one end of a terrace of four residential properties which may have once comprised a semi-detached pair. The proposed dwelling would disrupt the symmetry of the terrace, but given that the building has already been subsumed into a somewhat mixed townscape, this would not be discordant or harmful to the street scene.
8. I note that the proposed design would be substantially similar to that of an extension which has already been permitted on appeal<sup>1</sup>. The Inspector in that case noted the 'neutral' contribution of the building to the general character and appearance of the area and concluded that, 'whether read as an extension or an additional dwelling in the terrace', the development would not result in an incongruous addition to the host dwelling. In my judgement, the same conclusion would apply to the current appeal. The proposal would require an additional door on the front of the existing building, but this would not stand out to the casual observer as being out of character.
9. Particular concerns are raised over the treatment of the front curtilage. This would need to accommodate a single parking space for the existing dwelling together with bin and cycle stores. The Council contends that the arrangement would be cramped and congested. However, the appearance would be comparable to other houses in the street, many of which have hard surfacing used for parking and wheelie bins stored in front gardens. In the case of the appeal scheme, the storage provision would need to serve two dwellings, but the landscaping shown on the plans, which includes a hedge wrapping around the front and side of the new bin store, would soften the appearance and help to assimilate the structures into their surroundings. Final details can be required by condition.
10. The proposal would not include a dedicated bin presentation point. However, I observed that such provision is not made for the vast majority of properties in the street; in most cases, householders simply place their bins at the edge of their curtilage on collection day. There is no reason why future occupiers of the proposed development should not do the same.
11. The Council argues that the proposed dwelling would lack a natural 'frontage' as it would have no forward facing habitable rooms. Whilst it is good design to provide opportunities for surveillance onto the street, the existing house would continue to fulfil this role. The new property would provide quiet living areas at the rear of the building, facing out onto the garden. This garden, and that of No 263, would be relatively small, but the Council accepts that they would be of adequate size bearing in mind other garden sizes locally. I concur with this view. I also note that the new dwelling would exceed the nationally described space standard<sup>2</sup> as regards internal floorspace.

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<sup>1</sup> APP/V1260/D/20/3262181

<sup>2</sup> Technical housing standards – nationally described space standard (2015)

12. Accordingly, I conclude that the proposal would not cause material harm to the character or appearance of the area. There would be compliance with Policies CS6, CS21 and CS41 of the Bournemouth Local Plan: Core Strategy (2012) (Core Strategy) and saved Policy 6.8 of the Bournemouth District Wide Local Plan (2002). These policies are consistent with the National Planning Policy Framework (the Framework) in seeking to ensure that development is of good design and sympathetic to local character, including the surrounding built environment. The Council also cites Core Strategy Policy CS38 but this relates to pollution and is not directly relevant to the matters in dispute.

### **Other Matters**

13. Concerns have been raised regarding the effect of the proposal on the living conditions of the occupiers of 259 Windham Road. However, there is an extant planning permission for an extension of identical scale and position on the site. The effect on the neighbours was deemed acceptable by the previous appeal Inspector. Given the fallback position, which is no different in impact terms, there is no reason to dismiss the appeal on residential amenity grounds.
14. Although the scheme would not provide any parking for the proposed dwelling, the BCP Parking Standards Supplementary Planning Document (2021) indicates that such provision is not required in this location. The Highway Authority raises no objection to the plans and I have no reason to take a different view.

### **Appropriate Assessment**

15. The appeal site lies within the zone of influence of the Dorset Heathlands Special Protection Area and Ramsar site and the Dorset Heaths Special Area of Conservation. The effects of the proposal on these designations must be considered in combination with other plans and projects in the area. It is impossible to rule out likely significant effects through increased recreational disturbance of protected birds. Appropriate Assessment is therefore required under The Conservation of Habitats and Species Regulations 2017.
16. The appellant has submitted a UU<sup>3</sup> which secures a financial contribution towards Strategic Access Management and Monitoring (SAMM) in line with the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document. The SAMM measures, taken together with Heathland Infrastructure Projects which are funded via the Community Infrastructure Levy, would be effective beyond all reasonable scientific doubt in mitigating or avoiding adverse effects on the protected sites.
17. As competent authority for the purposes of regulation 63 of the Regulations, I am satisfied that the proposal would not have an adverse effect on the integrity of the European protected sites, having regard to their conservation objectives. The SAMM contribution ensures compliance with Policy CS33 of the Core Strategy insofar as it seeks to protect the integrity of the Dorset Heaths international designations.
18. On the evidence before me, the planning obligations within the UU would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. As such, they comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended.

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<sup>3</sup> Dated 2 March 2022

## Conditions

19. I have considered the Council's list of suggested conditions against the tests set out in paragraph 56 of the Framework and the Planning Practice Guidance. I have amended the wording where necessary to improve precision.
20. In addition to the standard commencement condition, I have attached a condition specifying the approved plans to provide certainty. In the interests of the character and appearance of the area, I have imposed a condition requiring matching materials and a condition relating to the landscaping of the site frontage, including provision for soakaway drainage. To comply with relevant planning policies, conditions are also necessary to require the provision of the parking area, cycle pods and bin stores.
21. To protect the living conditions of neighbours at 259 Windham Road, conditions are necessary to secure obscured glazing for the windows in the side elevation, and to prevent the insertion of additional openings without a further grant of planning permission. The retained and proposed dwellings would have small rear gardens and therefore it would be reasonable to remove permitted development rights for new extensions on both properties, to ensure that sufficient private amenity space is retained.
22. The Council has suggested a condition to control construction working hours but such a condition was not attached to the extant permission. Having regard to this, and bearing in mind the importance of consistency, I do not consider that the condition is reasonable.

## Conclusion

23. The proposal would make efficient use of land to deliver an additional one bedroom dwelling in a location which has good access to services and facilities. It would contribute in a small way to remedying the shortfall of housing, in a borough which is currently unable to demonstrate a five year supply of deliverable housing sites. I am satisfied that there would be no adverse impacts and certainly none which significantly and demonstrably outweigh the benefits of the scheme. The proposal would comply with the development plan taken as a whole and as such a grant of planning permission is fully justified.
24. For the reasons given above, I conclude that the appeal should succeed.

*Robert Parker*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing nos 9334/400 Rev B, 9334/401 Rev A and 9334/402.
- 3) Within 3 months of the date of commencement of the development, full details of hard and soft landscape proposals shall be submitted to and approved in writing by the local planning authority. The details shall include:
  - a) Details of surfacing materials for the parking area, including provision for its drainage (such surfacing to be made of porous materials or laid to direct run-off water to a permeable or porous area or surface within the site);
  - b) A planting plan containing the species, planting sizes and planting densities for all soft landscaping; and
  - c) An implementation timetable.

The landscaping scheme shall be implemented in accordance with the approved details. Any plants which die, become diseased or damaged, or are removed within 5 years of planting shall be replaced in the next planting season with plants of the same size and species, unless otherwise agreed in writing by the local planning authority.

- 4) The development hereby permitted shall not be occupied until details of the cycle storage pods and bin stores, including external materials and finishes, have been submitted to and approved in writing by the local planning authority. The cycle storage pods and bin stores shall be provided in accordance with the approved details prior to first occupation of the new dwelling and they shall be retained, maintained and kept available for use by the occupants of the development at all times.
- 5) Prior to the new dwelling being first occupied, the car parking area including vehicular access, electric vehicle charging point and pedestrian visibility splays shall be constructed and laid out in accordance with the approved plans. They shall thereafter be retained, maintained and kept available for use by occupants of the existing dwelling (263 Windham Road) for the lifetime of the development.
- 6) The new dwelling hereby permitted shall not be occupied until the windows in the southwest side elevation have been glazed with obscured glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and fixed shut below 1.7m above internal floor level. The windows shall be permanently retained as such.

- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no additional windows or openings shall be constructed on the southwest side elevation of the dwelling hereby permitted without the grant of further specific planning permission from the local planning authority.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements of either dwelling shall be constructed without the grant of further specific planning permission from the local planning authority.
- 9) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in colour and texture those used in the existing dwelling.

\*\*\* END \*\*\*