
Appeal Decision

Site visit made on 21 September 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2022

Appeal Ref: APP/V1260/W/22/3292970
142A York Road, Poole BH18 8EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr S Daniels against the decision of BCP Council.
 - The application, Ref APP/21/00718/F, is dated 6 May 2021.
 - The development proposed is demolition of existing dwelling and replacement with 1no. bungalow.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr S Daniels against BCP Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues, which have been established on the basis of the Council's Appeal Statement, are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of No.142 York Road, having regard to outlook impacts; and
 - The effect of the proposal on the living conditions of the occupiers of Nos. 136 and 142 York Road, having regard to activity, noise and disturbance impacts.

Reasons

Character and appearance

4. The appeal site lies on the west side of York Road, in an established urban residential area. Built development within this part of the road is predominantly characterised by detached frontage dwellings, mainly comprising a mix of bungalows, chalet dwellings and houses, which are set back from the street within generous plots. The site lies within a wider area covered by Area Tree Preservation Orders. Mature trees, hedging and shrubs comprise defining features of site frontages and front and rear gardens, so that built development within the site vicinity has a pleasant, spacious and verdant character.

5. The site comprises part of the land forming the original plot of No.142, which is a detached street-facing bungalow with parking to the front and side, accessed from York Road. The appeal site includes part of the frontage parking area, side parking area, a detached single garage with a detached single storey residential property to its rear, and part of the original lawned rear garden of No.142.
6. The proposal would replace a detached flat-roofed single storey one-bedroom dwelling located within the original plot of No.142, which is authorised by virtue of a Lawful Development Certificate granted in November 2020 (the LDC), with a larger, L-shaped, pitched/hipped roof, 3-bedroomed bungalow. An enclosed area of private rear garden would be provided to the rear of No.142, to serve that property, and the remainder of its original rear garden would be given over to the new bungalow.
7. Whilst the above garden arrangement currently exists on the ground, my decision, including consideration of which development plan policies are relevant, takes into account that the current plot layout was not included within the LDC approval, whose approved plan boundary was drawn tightly around the majority of the approved dwelling. As such, the rear garden of No.142 remained largely unaffected by that permission.
8. The existing dwelling to be replaced comprises a compact, low, flat-roofed structure which, although sited behind the established front building line of dwellings within this part of the road, is akin in scale and appearance to a domestic outbuilding, and it has a similar visual on-site presence as such. Moreover, as approved by the LDC, it does not detrimentally impact on the spacious character of the rear part of the site. Consequently, it does not materially detract from the prevailing regular rhythm of frontage development, set within verdant spacious plots with generous rear gardens.
9. The appeal scheme would comprise an overtly more residential design of building, with a significantly greater footprint and roof mass and bulk than those of the existing outbuilding dwelling. As such it would assume a notably greater visual presence on the site than that of the existing structure.
10. Due to a combination of its proposed L-shaped footprint, and its position immediately adjacent to the side and rear boundaries of the remaining rear garden for No.142 and within close proximity of the side boundary with No.136, the proposed new building would result in an uncharacteristically cramped form of residential development within the rear back garden area. The congested impact would be compounded by the relatively small size of the proposed enclosed private rear garden to serve No.142.
11. These factors, in conjunction with the proposed tandem arrangement of buildings near to each other, would amount to an incongruous and tight layout of residential development, which would be at odds with the more regular and spacious arrangement of dwellings and gardens which prevails within the locality.
12. The proposed small off-setting of the new building from the northern side boundary and the removal of the existing garage at the side of No.142 would not sufficiently overcome the harmfully constricted nature of the appeal scheme. Moreover, as a result of the lack of screening by a side garage building of the new building, together with the larger, and more overtly

domestic, gable ended frontage of the new building compared to that of the existing outbuilding dwelling, attention would be drawn to the discordant and tight relationship between the new and parent residential properties when viewed from the public realm of the street.

13. The presence of a higher, two-storey detached dwelling at No.136 does not alter my above findings. Nor am I persuaded, on the basis of the evidence before me, that the above harm I have identified is outweighed or justified by the potential to introduce improved sustainable design measures into a new building, compared with the standards that could potentially be achieved within the existing dwelling that has become lawful through the passage of time.
14. For the above reasons, I therefore conclude that the proposal would materially harm the character and appearance of the area. As such, the appeal scheme would be contrary to Policies PP27 and PP28 of the *Poole Local Plan 2018* (the LP). These policies, amongst other things, seek to ensure that new developments achieve a good standard of design, which reflects or enhances local patterns of development and neighbouring buildings in terms of layout and siting, including built site coverage, and only permit plot severances or plot subdivisions where there is sufficient land to enable a type, scale and layout of development to be accommodated in a manner which would preserve or enhance the area's residential character.
15. 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, as set out in Chapter 12.

Living conditions of 142 York Road – outlook

16. The proposed L-shaped dwelling would effectively 'wrap-around' a large part of the boundary of the proposed rear garden of No.142. This garden, which is of a significantly smaller size and shorter depth than that originally associated with the property, would comprise the sole rear private outdoor amenity area for that property. Moreover, I saw, on my site visit, that the rear elevation of that dwelling incorporates full height glazing/patio doors providing a direct outlook onto this area. Therefore, it is reasonable to assume that the appeal scheme would impact upon a well-used outdoor amenity area associated with No.142.
17. The proposed height of the new dwelling, comprising a solid brick wall up to eaves level and hipped roof above, combined with its proposed position immediately adjacent to two sides of the garden, would result in an unduly oppressive and overbearing impact on the outlook from the garden and the rear elevation fenestration of No.142.
18. For the above reasons, I therefore conclude that the proposal would materially harm the living conditions of the occupiers of 142 York Road, having regard to outlook impacts. As such, the proposal would not accord with LP Policy PP27, in so much as this policy requires new development to be compatible with surrounding uses, and not result in a harmful impact upon amenity for local residents, including having regard to whether the development is overbearing or oppressive, and to provide satisfactory external amenity space for any existing occupiers.

19. This is generally consistent with Paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

Living conditions of 136 and 142 York Road – activity, noise and disturbance

20. The proposal would replace a small one-bedroom dwelling with a notably larger, family-sized 3-bedroom bungalow. This would reasonably be expected to result in more comings and goings to the property from future occupants and their guests and delivery/services suppliers, together with more general noise and activity in association with the day-to-day occupation of the dwelling than currently exists as a result of the existing outbuilding dwelling on the appeal site.
21. Also, the proposed removal of the existing garage to the side of No.142 and its replacement with vehicle parking, access and turning provision in connection with the new dwelling, would result in additional activity alongside, and in close proximity to, No.142.
22. I saw that there are two large windows in the driveway-facing wall of No.142, one of which appears to serve a habitable room, together with a large habitable room window on the front elevation of the forward-projecting element of No.142. The close proximity of the proposed access and parking for the new dwelling to the building of No.142, combined with these window locations, means that the occupiers of No.142 would be likely to experience noise disturbance impacts associated with passing vehicles and pedestrians accessing and exiting the new dwelling.
23. There would be likely noise disturbance from pedestrian conversations, vehicle engines, driver and passenger conversations, and in-vehicle music/entertainment systems, and light disturbance from vehicle headlights in connection with vehicular activity to and from the new dwelling.
24. These impacts would be compounded by the close proximity of the new building to the private rear garden of No.142, where the noise and activity arising from the day-to-day occupation of the new dwelling would potentially impact upon the quiet enjoyment of this garden area by the residents of No.142.
25. All of the above harmful impacts would reasonably be expected to be increased during periods of warm weather when windows and doors are more likely to be open and there would be more use made of the gardens of both properties.
26. For the above reasons, I therefore conclude that the proposal would materially harm the living conditions of the occupiers of 142 York Road, having regard to activity, noise and disturbance impacts. As such, the development would be contrary to LP Policy PP27, in so much as this policy requires new development to be compatible with surrounding uses, and not result in a harmful impact upon amenity for local residents, including having regard to factors including noise emissions and artificial light intrusion.
27. This is generally consistent with guidance within the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (Paragraph 130).

28. I have considered the Council's concerns about the impact of the proposal upon the living conditions of the occupiers of No.136. Whilst the proposal would result in increased noise and activity adjacent to the side boundary of that property, I am not persuaded, on the basis of the evidence before me, that such impacts would be materially harmful.
29. In coming to this view, I have taken into account the existing fencing along the side boundary of the appeal site and that property, the separation distance between the appeal site and the dwelling at No.136, intervening mature landscaping, and the general arrangement of, and greater availability of, private external amenity area within the grounds of that property.

Other matters

30. The appellant has drawn my attention to an extant permission in respect of a new two storey dwelling in the rear garden of the adjacent property at 136 York Road¹. I saw that this development was under construction at the time of my site visit. Whilst situated in the rear garden of the host property, on the basis of the evidence before me and my site inspection, I do not find that scheme to be directly comparable with the current appeal proposal.
31. This includes having regard to the size of the original plot of No.136, which was notably larger than those characteristic of this part of the road, and the juxtaposition of the new dwelling and its access and parking in relation to the host property, which allows for a more spacious arrangement of built development. As such, the impact of that scheme on the character and appearance of the area and the living conditions of the host property at No.136 are not directly comparable with those of the appeal scheme.
32. The Council's Appeal Statement notes that the Council consider that insufficient information was submitted with the planning application to enable proper assessment of the impact of the proposal upon protected trees within the appeal site and on neighbouring land. I observed a number of mature trees within these locations during my site visit, which, due to their position in relation to the appeal scheme, have the potential to be impacted upon by the proposal.
33. I acknowledge that the appellant subsequently submitted a Statement Regarding Trees on 21 September 2022, on the morning that my site visit took place, and which I received after having visited the site.
34. The Council did not include a tree-related objection within their putative reason for refusal. Having regard to my conclusions in respect of the three main issues above, this matter is not determinative to the outcome of the appeal. As such, I do not intend to pursue it further, and I have not taken account of the appellant's submitted Tree Statement in my decision, nor invited the Council to respond to its contents.

Conclusion

35. For the reasons given above, I conclude that the appeal should be dismissed.

¹ LPA Refs APP/20/00040/F and APP/21/01779/F

S Leonard

INSPECTOR