



Appeal Decisions

Site visit made on 22 February 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2023

Appeal A Ref: APP/V1260/W/22/3291070

4 Burton Road, Poole BH13 6DU

- 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 C Wilson against Bournemouth Christchurch and Poole Council.
 - The application Ref APP/21/01459/F, is dated 30 September 2021.
 - The development proposed is the partial demolition of the garage, erect new side elevation walling, sever land and erect 2 detached houses with associated car parking.
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Appeal B Ref: APP/V1260/W/22/3302593

4 Burton Road, Poole BH13 6DU

- 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 C Wilson against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/22/00094/F, dated 20 January 2022, was refused by notice dated 22 June 2022.
 - The development proposed is the partial demolition of the garage, erect new side elevation walling, sever land and erect 2 detached houses with associated car parking (revised scheme).
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Decision

1. Appeal A is dismissed and planning permission is refused.
2. Appeal B is dismissed.

Application for Costs

3. An application for costs was made by Mr C Wilson against Bournemouth Christchurch and Poole Council in respect of Appeal A. This application is the subject of a separate decision.

Background and Main Issue

4. Appeal A was submitted following the Council's failure to give notice of its decision within the prescribed period. Since the appeal was lodged, the planning application that is the subject of Appeal B was submitted to the Council. This included additional supporting information, to address the Council's concerns regarding ecology and drainage. The proposed development was unchanged.
5. In their statement, the Council has confirmed that the reasons for refusal set out in its decision relating to Appeal B would also have been relevant to Appeal

A, had a decision been made prior to the appellant lodging the appeal. I have determined the appeals accordingly. Although I have referred to the different cases in this decision as Appeals A and B in the above heading, as they comprise identical development, I have considered them together and have referred to the proposed development in singular terms.

6. Consequently, the main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the Branksome Park Conservation Area (the BPCA).

Reasons

7. As the appeal site is located within the BPCA I am required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The Branksome Park Conservation Area Character Appraisal and Management Plan Supplementary Planning Guidance 2006 (the Appraisal) sets out that the significance of the BPCA is derived from its spacious sylvan character resulting from the planned division of a substantial estate into large building plots. The generous wooded plots, the road layout, dense evergreen hedges and turf embankments which date from the original plan, create a tranquil residential setting, distinct from surrounding urban areas.
8. The appeal site comprises the existing property at 4 Burton Road (No 4) and its gardens, located within the Western Road (Upper) and Burton Road sub area identified in the Appraisal. Here the Appraisal states that there is "a marked difference from one side of the road to the other, highlighting the generous plot sizes seen within the Conservation Area....when compared to surrounding development". Whilst the existing detached dwelling is not a listed building, locally listed or a Key Building identified within the Appraisal, its substantial size, relationship to the road and siting within the generous sloping garden area reflects the spatial qualities that are key characteristics of the BPCA. Even though many of the existing tall trees are located away from the highway, on the lower lying part of the site, they are experienced as part of the wider wooded area from both public and private spaces. Although the existing property requires significant renovations and repairs, the appeal site makes a positive contribution to the spacious sylvan character of the BPCA.
9. The principle of plot severance or sub-division is not precluded by Policy PP28 of the Poole Local Plan November 2018 (the Local Plan). However, this policy sets out where it would be permitted, namely "where there is sufficient land to enable a type, scale and layout of development including parking and usable amenity space to be accommodated in a manner which would preserve or enhance the area's residential character". The Appraisal supports this approach in respect of the sub area stating "development should reflect the low-density pattern of the area, retaining detached houses in large well landscaped plots".
10. The proposed development would provide 2 detached dwellings to the rear of the appeal site, accessed via a shared driveway with the existing property. The modest plot depths and building widths, the sub-division of the appeal site would result in significantly smaller plots than the prevailing spatial characteristics within the surrounding area and the wider BPCA. Additionally,

notwithstanding the revisions made to a previous application¹ on the site for 3 dwellings, the closer positioning of the 2 dwellings to each other, relative to those within the surrounding area, would not reflect the large, well landscaped plots experienced nearby, resulting in a denser, incongruous pattern of development.

11. Even if the proposed development would be largely hidden from the highway, given the appeal sites lower lying land and the screening of most views by existing landscape features and the existing property at No 4, this is not sufficient reason to permit otherwise unacceptable development. Regardless, the shared driveway and glimpses through to the additional boundary treatment to the garden of the existing property would be visible from the highway. Moreover, conservation areas are not only experienced from outside, but also from within the area themselves, including private spaces. Consequently, the proposed plot sizes and siting of the dwellings would not preserve or enhance the character and appearance of the area or the heritage asset in this regard.
12. As emphasised by the Appraisal and supported by the Council's Arboricultural Officer, trees are important features of the BPCA that make a positive contribution to the sylvan character and overall appearance of the area. Whilst the Appraisal refers to the fact that existing trees and vegetation along front, side and rear boundaries give the appearance of overgrown gardens, this is not the only key landscape characteristic of the BPCA. The existing trees on the appeal site form a backdrop to the existing property, with the canopies towering above its roofscape. Moreover, the Appraisal states that development should seek to respect and maintain the current dominance of trees and other vegetation in the area.
13. All the trees on the appeal site are protected by an area Tree Preservation Order² (TPO). The proposed development would retain the majority of the existing trees, and the proposed dwellings would be sited outside the tree root protection zones. However, the Arboricultural Impact Assessment (AIA) submitted with the appeal applications includes the removal of 7 trees, comprising 3 category C³ trees and 4 category U⁴ trees. Although it has been demonstrated that the removal of the category U trees is necessary on the grounds of safety, irrespective of my decision, this does not apply to the category C trees. Identified as Ta, Tb and Tc on the Tree Protection Plan (TPP), these trees are located within the proposed plot for House 2, as confirmed by the taping out on the ground of the approximate location of the proposed dwellings at the time of my site visit. Whilst identified of low quality or value, given their substantial size they make a positive contribution to the character and appearance of the area.
14. Although limited information of the proposed new planting to augment the existing tree population is provided, full details of the location, species, sizes and timing could reasonably be secured via a planning condition. However, any new planting would take a significant amount of time to establish and contribute to the significance of the BPCA, particularly given the already

¹ Ref APP/19/01289/F

² Ref TPO/50/00001/A1

³ Defined in BS5837:2012 – Trees in relation to design, demolition and construction – Recommendations as trees of low quality and value.

⁴ Defined in BS5837:2012 as trees unsuitable for retention, usually to be removed.

substantial trees on and adjacent to the appeal site. Therefore, I am not persuaded that this would adequately overcome the harm identified above.

15. Sections of the proposed access and parking areas, including the car port for House 2, would be located within the root protection zones of several of the retained trees. Given this, the proposed development would potentially put the longevity of these trees at risk. However, a planning condition requiring the approval of construction details of the driveway and car port could reasonably have been attached to a planning permission, had I been minded to allow the appeals.
16. I have found that the proposed development would harm the character and appearance of the BPCA. In the language of the National Planning Policy Framework (the Framework), the proposed development results in less than substantial harm to the significance of the designated heritage asset on the basis that the proposed development would harm only part of its significance. In these circumstances, paragraph 202 of the Framework states that this harm should be weighed against the public benefits of the proposed development including, where appropriate, securing its optimum viable use. I have attached great weight to the desirability of avoiding any such harmful effect. I will return to this matter below.

Other Matters

17. The proposed development would provide social and economic benefits from the construction and occupation of two dwellings. Environmental benefits would be derived from wildlife enhancements, additional tree planting, electric charging points, cycle storage and energy efficiency standards. These benefits weigh in favour of the grant of planning permission.
18. Even though the proposed dwellings would be of a contemporary design, I am not persuaded that the proposed design is of sufficient quality to warrant support from paragraph 134 of the Framework which confers significant weight to outstanding or innovative designs which promote high levels of sustainability. Furthermore, as I have concluded the appeal scheme would result in an incongruous pattern of development, it would not meet the additional requirement of paragraph 134 namely, to fit in with the overall form and layout of its surroundings.
19. My attention has been drawn to a previous appeal⁵ on the site comprising 3 detached dwellings. I appreciate the attempts of the appellant to evolve the proposed development in response to this decision, including the reduction in the quantum of development and the increased separation of the proposed dwellings. Whilst the previous Inspector confirmed that the principle of plot sub-division is not unacceptable, it was concluded that the scheme would clearly be residential and, as it would be 'tight knit', would appear cramped within a much more spacious area. I have similarly concluded that the appeal scheme would result in plot sizes and spaces between buildings which do not reflect the overall character of the area. Moreover, I have concluded that new planting would not overcome the harm I have identified, irrespective of the improved opportunities within the proposed development to provide landscaping, in comparison with the previous appeal scheme.

⁵ APP/V1260/W/20/3247649

20. I have also been referred to the former garage to No 4 which has been converted to a dwelling and the plot severed to create 4a Burton Road (No 4a). Although the plot is significantly smaller than those within the surrounding area, the scale, massing and architecture of No 4a retains the characteristics and appearance of a garage. As such, it is ancillary to the other dwellings in the road and preserves the overall character and appearance of the BPCA.
21. The appellant has referred me to several other planning applications and appeal decisions in respect of sites within the surrounding area, including examples within the BPCA and I viewed each of these examples during my site visit. A large, detached dwelling located to the rear of the adjacent existing property at 2 Burton Road (No 2)⁶ has recently been granted planning permission. However, this permission relates to a single dwelling, set within substantial, well landscaped gardens on a plot size reflective of the spatial characteristics of the area. Therefore, irrespective that the plot associated with No 2 straddles the boundary of the BPCA, it is not directly comparable with the proposed development. Other examples provided by the appellant include: sites outside the BPCA or in sub-zones of the BPCA with materially different characteristics; new dwellings located close to the highway, rather than to the rear of existing properties; and single dwellings. As a result, I do not consider these examples to be directly comparable with the proposed development and attach limited weight to them.
22. The site is located within 5km of the Dorset Heathlands Special Protection Area (SPA) including the Dorset Heathlands Site of Special Scientific Interest (SSSI), the Poole Harbour SPA including a Ramsar site and the Dorset Heaths Special Area of Conservation (SAC). In relation to Appeal B, the Council's decision notice included two reasons for refusal relating to the SPAs and SAC as it had not been demonstrated that the proposed development would not cause harm to these European Sites. Furthermore, no avoidance of adverse effects through the Strategic Access Management and Monitoring (SAMM) had been secured at the time of the Council's decision. I note that the appellant has now submitted upfront payments to the Council through Section 111 of the 1972 Local Government Act to pay the relevant contributions towards the Heathland and Poole Harbour SAMMs. If the circumstances leading to the grant of planning permission had been present, I would have considered the impact of the proposed development upon the SPAs and SAC, in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the main issues above, I have not found it necessary to consider such matters any further as this would not alter the outcome of the appeals.
23. Even if I were to conclude that the proposed development would accord with Policy PP2 of the Local Plan, taking into account the definition of sustainable patterns of development clarified in another appeal decision⁷, this would be a neutral factor in my determination of the appeals.
24. Although close to it, the comments received from the Council's Urban Design and Conservation Officer were submitted to the Planning Officer prior to the target determination date for Appeal A. Any concerns regarding this timing, and the processing of the appeal planning application fall outside the remit of these decisions. Additionally, my decisions are based on the evidence before

⁶ Planning application ref: APP/21/01677/F

⁷ APP/Q1255/W/18/3199210

me, irrespective of the arboricultural qualifications of the main parties, consultees or other interested parties.

Planning Balance

25. As advised by paragraph 202 of the Framework, less than substantial harm should be weighed against the public benefits of the proposed development. As already identified, the proposed development would provide economic and social benefits from the construction and occupation of two dwellings. As the Framework affirms the Government's objective of boosting the supply of homes, I attach significant weight to this public benefit. Any environmental benefits from new planting, wildlife enhancements and energy efficiencies would be modest given the site's size. I attach modest weight to the environmental benefits that would arise from the development.
26. Nevertheless, the weight attributed to the public benefits identified above does not outweigh the great weight to be given to the harm to the heritage asset. As a result, the proposed development would not satisfy the requirements of the Act, paragraph 202 of the Framework and would conflict with policies PP27, PP28 and PP30 of the Local Plan. These policies, amongst other aspects, require development to reflect or enhance local patterns of development and preserve or enhance Poole's heritage assets. I also find conflict with Chapters 12 and 16 of the Framework in respect to the need for new development to be sympathetic to the character and appearance of its surroundings, including the historic environment.
27. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the Framework. In such cases, paragraph 11 of the Framework states that where the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Such assets include designated heritage assets (Footnote 7).
28. Having regard to my findings that the proposed development would result in harm to the character and appearance of the BPCA, I consider that the application of the Framework's policies regarding heritage assets provides a clear reason for refusing the proposed development. Consequently, the presumption in favour of sustainable development contained in the Framework would not weigh in support of this case.
29. I have found that the proposed development would conflict with policies PP27, PP28 and PP30 of the Local Plan and I consider that, as these policies are broadly consistent with the Framework, this conflict has full weight. Consequently, I conclude that the proposed development is contrary to the development plan as a whole and material considerations, including the provisions of the Framework, do not indicate that the proposed development should be determined other than in accordance with the development plan.

Conclusion

30. For the reasons set out above, having had regard to all matters raised, I conclude that both appeals should be dismissed and that, in respect of Appeal A, planning permission is refused.

Juliet Rogers

INSPECTOR