
Appeal Decision

Site visit made on 21 February 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2023

Appeal Ref: APP/V1260/W/22/3306193

23 Arcadia Road, Christchurch BH23 2JF

- 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 Nigel Ware against the decision of BCP Council.
 - The application Ref 8/21/0598/FUL, dated 1 June 2021, was refused by notice dated 21 April 2022.
 - The development proposed is the demolition of attached garage, alteration and extension of existing dwelling and construction of single storey dwelling to the rear with driveway, parking and turning facilities.
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Decision

1. The appeal is dismissed insofar as it relates to the construction of the single storey dwelling to the rear with driveway, parking and turning facilities. The appeal is allowed insofar as it relates to the demolition of the attached garage, alteration and extension of the existing dwelling.
2. Planning permission is granted for the demolition of the attached garage, alteration and extension of existing dwelling at 23 Arcadia Road, Christchurch BH23 2JF, in accordance with the terms of the application Ref 8/21/0598/FUL, dated 1 June 2021, and subject to the following conditions:-
 - 1) The development hereby granted permission shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:-
 - Location plan near BH23 2JF;
 - Site plan / block plan near BH23 2JF;
 - Existing site plan Drawing No 0431/E2;
 - Plans of the existing Drawing No 0431/E1;
 - Proposed site plan Drawing No 0431/02; and
 - Proposed alterations to No 23 Drawing No 0431/01.

3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on drawing Proposed alterations to No 23 Drawing No 0431/01.

Procedural Matters

3. The Council's second reason for refusal was based upon the harm to the Dorset Heathlands, which are an extensive network of lowland heaths nationally and internationally recognised for their nature conservation as a Site of Special Scientific Interest (SSSI), as a Special Protection Area (SPA), Ramsar and Special Area of Conservation (SAC). The Council indicated that this reason for refusal could be overcome by the submission of a completed legal agreement securing financial contributions for strategic avoidance, management and monitoring measures for these habitat sites. During the appeal process the appellant provided a Unilateral Undertaking (UU) securing payment of the required financial contributions. I shall return to this matter later.

Main Issues

4. The main issues are: firstly, the effect of the proposal upon the character and appearance of the area, having regard to the impact upon trees; and secondly, the effect upon the integrity of the Dorset Heathlands habitat sites.

Reasons

Character and Appearance

5. 23 Arcadia Road (No 23) is a detached house positioned within a residential area comprising a mix of mostly detached houses and bungalows. The area is characterised by long straight roads, to either side of which are houses and bungalows that are set back from the highway behind similar sized front gardens. This, and the presence of similar sized plot widths creates a planned appearance to the layout of the area.
6. The appeal property and some of those nearby have deep rear gardens, within which there are several tall trees. These trees give a verdant maturity to the area. Within the rear garden of No 23 there are a variety of large trees of a mix of species, and there is a protected oak within the garden of 41 Endfield Road, the canopy of which extends into the appeal site.
7. To one side of the house is a flat roofed extension. To provide the proposed driveway the existing extension to the house would be demolished, with the flank wall made good with materials to match those already present. The removal of the extension would neither harm the appearance of the host dwelling nor that of the surrounding area. New ground floor windows would be installed in the flank wall, but they would be set away from the neighbouring property and an acceptable level of privacy would be maintained. The appellant's Preliminary

Ecological Appraisal (July 2021) found that the nature of the construction of the existing extension would provide no potential for roosting bats or birds. For these reasons the works to No 23 would be acceptable.

8. The rear garden of No 23 is T-shaped, and the proposed dwelling would be positioned close to the junction of the two sections. The dwelling would be of a modest size, being single storey in height, with a curved grassed roof and timber clad walls. However, the dwelling would have no active frontage with the public realm. It would introduce a detached dwelling into an area where the prevailing character is one in which the houses and bungalows have a deliberate and consistent planned relationship with the highway, and as such it would be an uncharacteristic addition to the area.
9. There are a variety of styles and sizes of domestic outbuildings within the gardens of the nearby properties, including a sizeable one in the appeal property. In most cases they have a clear subservience of form and function to the host dwelling, unlike the appeal proposal. The dwelling has been designed to complement its sylvan setting, but despite this it would have a legible form and function as a detached dwelling. The provision of a front door, and windows, including full height windows, would make the building readily recognisable as a dwelling.
10. Although the form of the dwelling and the use of materials would be innovative, it would nevertheless appear distinctly different from any of the nearby houses and bungalows with their conventional forms and palettes of materials. These differences when combined with the position of the dwelling would be such that it would harmfully draw the eye, particularly as the removal of trees would make the dwelling visible from Arcadia Road.
11. In addition, the intensification of the domestic use of the site would be evident through the provision of an additional parking area, a turning head, and a long driveway, as well as the duplication of other residential paraphernalia such as bins and sheds. Even with the modest size of the dwelling, there would be views of it within the surrounding area, both from the public and private realms.
12. The trees within the appeal site are visible from public views and they form a leafy group that can be seen from long distances away. Where trees are present there is always a balance to be struck between achieving the development of the site and their retention, and the balance includes considering their impact upon the living conditions of future occupiers. In this case there is also a protected oak that spreads into the appeal site, and this tree makes an important contribution to the character and appearance of the area, including from long distances away. It creates a leafy setting and skyline to the houses and

bungalows, and given its size and height it also forms a verdant focal point.

13. The presence of trees is a consideration that should inform site layout and design, and BS5837: 2012 – Trees in Relation to Design, Demolition and Construction makes some allowance for disturbance to the roots and crowns of trees during construction works. The dwelling and its parking and turning areas would be just outside the root protection areas for the retained trees. However, the proposed tree protection fencing has been very tightly drawn to the eastern and northern sides of the building, and in some places it would be under the crowns of the trees. In addition, the protection fencing would tightly constrain construction works. Given the circumstances of this case, including the proximity of the works to the trees and the importance they have to the character and appearance of the area, whether the level of protection proposed and the suggested conditions would be sufficient to protect the trees during construction and ensure their long-term health and vitality has not been demonstrated with any certainty.
14. Furthermore, the protected oak is an early mature tree and will continue to grow and thereby contribute to the area. Oaks can reach substantial heights and also have wide canopy spreads. In due course the proximity of this tree as it grows it would increasingly impact upon future occupiers with regard to light loss and outlook. The positioning of the dwelling to the south of the oak would reduce the shading impact of the tree, but it would be one of several trees in close proximity that would significantly restrict the outlook of future occupiers, as well as reduce the available open garden space. There would also be an ongoing requirement upon future occupiers to manage and maintain the trees. The position of the dwelling and the dominance of tall trees within the site would be such that heavy pruning and / or removal of the trees would be required so as to minimise their impact upon the living conditions of future residents, thereby eroding the positive impact of the trees within the area.
15. The appellant has drawn my attention to a number of similar developments that are considered to establish a precedent for the appeal scheme. However, most of those referred to are some distance away and are in different locational contexts than the appeal proposal. There is a recent permission for a dwelling in the rear garden of 21 Arcadia Road. This dwelling would be at the end of a long driveway, but it would be positioned to one side, rather than directly at the end thereby minimising the impact of the dwelling from the public realm. In addition, it would not be so close to the protected oak nor to the other nearby trees as the proposed dwelling. Having regard to these differences, neither this permission nor the other cases cited by the appellant pre-determine the approval of the appeal scheme.
16. For these reasons the scheme would unacceptably harm the character and appearance of the area, and the suggested conditions would not

overcome this harm. The proposal would be contrary to Policies HE2 and HE3 of the Christchurch and East Dorset Core Strategy (2014) (CS). These policies seek amongst other things, high quality development that reflects local distinctiveness, that which is compatible with or improves its surroundings, and the protection or enhancement of landscape character, including taking into account natural features such as trees, thereby reflecting objectives of the National Planning Policy Framework (the Framework).

Habitat Sites

17. The appeal site is within 5km of the Dorset Heathlands, which are an extensive network of lowland heaths nationally and internationally recognised and protected. These heathlands host priority habitats and species, including birds, lizards and snakes as well as other typical species of lowland heaths, wetlands and dunes. The Dorset Heathlands are under significant pressure from increased public access and use, and a net increase in the number of dwellings and occupiers in the area would increase the pressure upon these important habitat sites.
18. The Council has a Supplementary Planning Document (SPD) (ie the Dorset Heathlands Planning Framework SPD (2020)), detailing a strategy for the avoidance and the mitigation of impacts of new residential development upon these important sites. This requires that a contribution is made towards mitigating the impact of additional residents through measures to control access, monitoring, and mitigation of the sites, and thereby accords with the objectives of CS Policy ME2.
19. Given the location of the proposed dwelling, future occupiers would be likely to impact upon the sites having a significant effect upon their integrity. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority. The appellant provided a UU during the appeal, securing a contribution towards the mitigation measures identified in the SPD. I will return to this matter below.

Other Matters

20. Local residents have raised a number of concerns, including loss of privacy, increased noise and disturbance, and the creation of a precedent. As regards the latter, each scheme is considered on its individual merits, and of the other concerns, following my findings on the main issue I have no need to consider them further.
21. Finally, concerns regarding the Council's handling of the application, including community engagement, relate to procedural matters and have no bearing on my consideration of the planning merits of the case.

Planning Balance

22. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the Framework is engaged, whereby planning permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
23. The provision of an additional dwelling would be a social benefit arising from the scheme as it would contribute towards the supply of housing. There would also be a small, time-limited economic benefit arising from the construction phase of building an additional home. Future occupiers would contribute to the local economy, and would live close to a variety of public transport options and within walking distance of a variety of services and facilities.
24. Weighing against these benefits would be the significant environmental harms arising from the development. The proposal would deliver an additional high-quality home, but in doing so would cause significant harm to the distinct character and appearance of the area. The above referenced CS Policies are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to local character, including protecting trees.
25. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse environmental impacts in this case amount to environmental harm which carries substantial weight, and this thereby significantly and demonstrably outweighs the economic benefits and even the weight that derives from the social benefits, when assessed against the policies in the Framework as a whole. It follows that the presumption in favour of sustainable development does not apply.
26. Returning now to the heathlands, had I reached a different conclusion on the main issue of character and appearance, it would have been necessary for me to undertake an Appropriate Assessment and give further consideration to the likely effectiveness of mitigation and avoidance measures. In doing so I would have had regard to the UU. However, as I am dismissing the appeal for other reasons this has not been necessary.

Conditions

27. The Council has not suggested conditions for the appeal, albeit I have considered those suggested within the Council's officer report against the requirements of paragraph 56 of the Framework. Where necessary and in the interests of clarity and precision they have been altered to better reflect these requirements.

28. The standard time condition has been imposed, as has one requiring the development to be carried out in accordance with the approved details and plans that are relevant to the demolition and associated works, so as to avoid doubt and in the interests of proper planning. A condition requiring the use of the materials as specified in the relevant drawings has also been attached to maintain the character and appearance of the host building and the contribution it makes to the area.

Conclusion

29. The scheme involves different elements that are physically and functionally independent. In this respect I find the proposed demolition of the attached garage, alteration and extension of the existing dwelling to be acceptable and clearly severable from the construction of a single storey dwelling to the rear with driveway, parking and turning facilities. Therefore, I propose to issue a split decision in this case and grant planning permission for the works to the house, but dismiss the appeal insofar as it relates to the construction of a single storey dwelling to the rear with driveway, parking and turning facilities.

30. Thus, for the reasons given above, and having considered all other matters raised, the appeal is part allowed and part dismissed.

J J Evans

INSPECTOR