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# Appeal Decision

Site visit made on 27 June 2023

**by C Rose BA (Hons) BTP MRTPI**

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

**Decision date: 20 July 2023**

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**Appeal Ref: APP/V1260/W/23/3314805**

**34 Clowes Avenue, Bournemouth BH6 4ES**

- 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 J & P Saunt & Taylor against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref 7-2022-12124-F, dated 30 August 2022, was refused by notice dated 21 October 2022.
  - The development proposed is demolition of existing dwellinghouse and construction of replacement dwellinghouse.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the proposal on:
  - the character and appearance of the area; and,
  - the living conditions of the occupiers of No's 4 and 5 Solent View and No.36 Clowes Avenue with particular regard to outlook, privacy and sunlight.

## Reasons

### *Character and appearance*

3. The appeal property forms one of three roughly similar detached dwellings comprising a ground floor with further accommodation designed mainly within the roof. The three properties follow well defined building lines with the dwellings being of a simple and similar height utilising traditional brick facing materials and tiled roofs with a traditional pitch that do not detract from the area.
4. The immediate area within which the site is viewed comprises a mix of differing style detached dwellings, again mainly over two floors with the first floors within the roof space. The appeal property can be clearly viewed in association with neighbouring properties from Southbourne Coast Road to the rear of the site and on approach along Clowes Avenue.
5. By reason of the combination of its increased height and resultant scale, the appeal proposal would be at odds with the remainder of the two similar properties. Despite being sunk into the ground slightly, by reason of the increased height and number of floors, the building would become more prominent and be at odds with the wider area. As a result, it would be in stark

contrast to, and differ in form and scale to other nearby dwellings when viewed from both Southbourne Coast Road and Clowes Avenue.

6. Even acknowledging that the proposal would retain a similar footprint and distance to adjoining dwellings, the increased height and stark contrast compared with the general pattern of development in the area would be further heightened by its contemporary flat roof design that is not commonplace in the immediate context within which the site is viewed. At my site visit I observed the new dwelling constructed at No.29 Clowes Avenue and note that this has been constructed over two floors with pitched roofs at a similar height to its neighbours. As such it does not result in a height or scale of development directly comparable to the appeal proposal.
7. I have had regard to the appellants comments regarding the existing dwelling being difficult to alter, being of a poor build quality with wasted floor areas, lack of direct access to the rear garden, and the proposal being of a suitable plot size and ratio designed by an architect. However, these matters do not adequately justify the proposed design or address the harm I have identified above in relation to the height, scale, and flat roof design of the proposal.
8. For these reasons, I conclude that the proposed dwelling would harm the character and appearance of the area. As such, the proposal fails to comply with Policies CS22 and CS41 of the Bournemouth Local Plan: Core Strategy (2012) (CS) and parts 2, 3, 3.8 and 4.1 of the Residential Development A Design Guide (2008) (DG) and the National Planning Policy Framework (the Framework). Amongst other things, these seek to ensure that development is of a scale and appearance in keeping with the surrounding area, preserves or enhances the area's residential character, ensures that all development and spaces are well design and of a high quality and achieve well-designed places.
9. Although the notice of decision in relation to this main issue references Policy 6.8 of the Bournemouth District Wide Local Plan (2002) (LP), as this relates to infill development and the proposal is for a replacement dwelling, I find no direct conflict with this particular policy.

*Living conditions of occupiers of the neighbouring properties*

10. The side elevation of the existing dwelling is positioned near the rear boundary and gardens of No's 4 and 5 Solent View. As a result, the existing dwelling already has a degree of impact upon the outlook from the rear of No's 4 and 5 and results in some limited loss of sunlight to their gardens.
11. The proposed dwelling, by reason of its increased height and scale compared to the existing, would have a greater impact upon these neighbouring properties and their outdoor spaces. The greater height and scale would present a materially larger side elevation resulting in an overbearing impact, resultant harm to outlook and result in a further material loss of sunlight to the outdoor spaces to No's 4 and 5.
12. In addition, the opposite side elevation of the existing dwelling is located in close proximity to the rear garden of No.36 Clowes Avenue. Given the scale and orientation of No.34 Clowes Avenue, it does not currently result in an overbearing impact upon No.36. However, by reason of the increased height and scale of the appeal proposal, it would result in an overbearing impact upon the outlook from the rear windows to No.36 and from its rear garden.

13. I acknowledge that an existing first floor window and balcony to the existing property provide some limited overlooking of the rear garden to No.36, along with some open public views from Southbourne Coast Road. However, by reason of the sizable increase in glazing at first and second floor levels in close proximity, the appeal proposal would result in a significant increase in, and unacceptable loss of privacy, back towards the windows of No.36 and down over its rear garden. The resulting relationship would be unneighbourly and whilst other dwellings in the area, including the new build at No.29 Clowes Avenue, comprise some glazing at upper floor levels within their side elevations, they are not to a similar extent and do not overcome the harm from the appeal proposal.
14. I note that the Council have not refused planning permission due to the loss of privacy to No. 4 and 5 Solent View and I see no reason to disagree given the changing outlook from the appeal proposal towards these properties. I also take on board the comments from the appellant that the proposed dwelling would be of a similar footprint with its main elevation facing the sea. However, these matters do not adequately reduce the impact upon neighbouring residents.
15. For these reasons, I conclude that the proposal would result in a significant adverse impact on the living conditions of the occupiers of No's 4 and 5 Solent View and No.36 Clowes Avenue with particular regard to outlook, privacy and sunlight. As such, the proposal fails to comply with Policies CS22 and CS41 of the CS and parts 3.7 and 4.1 of the DG and the Framework. Amongst other things, these seek to ensure that development proposals enhance the amenities of neighbouring residents, do not harm living conditions and provide a high standard of amenity for existing users.
16. Although the notice of decision in relation to this main issue also references Policy 6.8 of the LP, as this relates to infill development, and the proposal is for a replacement dwelling, I find no direct conflict with this particular policy.

### **Other Matters**

17. I have taken into account the appellants evidence regarding a fallback position in relation to the addition of further storeys to the existing dwelling under permitted development rights. However, such permitted development rights involve the need to apply to the Council to determine whether prior approval is required and for an assessment in relation to the external appearance of the enlargement and impact upon the living conditions of adjoining premises. In light of the need for this assessment, and in the absence of any prior approval consent, I give this fallback position limited weight. In addition, other permitted development rights for extensions would not result in a similar height and scale of building to that proposed.
18. I have had regard to the improved energy efficiency of the proposed dwelling, inclusion of solar panels, and to the economic benefits associated with the new build. However, these benefits are small given the scale of the proposal and as such these matters do not outweigh the harm I have identified above.
19. I note the lack of harm to highway safety and drainage, provision of adequate car and cycle parking, but these matters are neutral in my consideration of the appeal.

20. I have considered the other examples of development put forward by the appellant, but I have limited information regarding them and in any case, they are some distance from the site in a different context and I am required to consider the proposal on its merits.
21. The appellant raises concerns regarding engagement with the Council during their consideration of the planning application. However, these are not matters which are for consideration in this appeal.
22. The appeal site falls within 5km of the Dorset Heathlands. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Conservation of Habitats and Species Regulations 2017 further.

### **Conclusion**

23. For the reasons given above I conclude that the proposal conflicts with the development plan taken as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, the appeal is dismissed.

*C Rose*

INSPECTOR