
Appeal Decision

Site visit made on 1 August 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Appeal Ref: APP/V1260/W/22/3312712

96 Barnes Crescent, Bournemouth BH10 5AW

- 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 and Mrs D J Lawrence against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2022-13605-D, dated 20 July 2022, was refused by notice dated 21 September 2022.
 - The development proposed is a single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellants have submitted a revised plan for the proposed dwelling (Drawing no. 4498:5B) showing a new section of fencing, the creation of a bin store and the insertion of patio doors to the side elevation adjacent to the garden area. It is requested that my determination is made in relation to the revised plan.
3. The Procedural Guide: Planning Appeals – England¹ advises that the appeal process should not be used to evolve a scheme and that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and interested parties at the application stage. Having regard to the 'Wheatcroft Principles'², I consider the nature of the alterations to be of a minor nature and pertain to matters that could generally be the subject of planning conditions. No changes would be made to the fundamental components of the proposal such as the siting, dimensions, or overall form of the proposal. Accordingly, I am satisfied that no one would be unfairly prejudiced were I to determine the appeal in relation to the revised drawing, and I have made my determination on that basis.
4. Contained in the refusal reason on the Council's decision notice is a reference to a failure to make an appropriate contribution towards mitigation measures, in the absence of which it is stated that the proposal would have an adverse effect on the integrity of the Dorset Heathlands. These are covered by several

¹ Section 16

² Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

European designations³ recognised by the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). The appellants have submitted a signed Unilateral Undertaking (UU) dated 26 May 2023, pursuant to section 106 of the Town and Country Planning Act 1990 (amongst others cited). It contains a planning obligation to pay the Council £428 towards strategic access, management and monitoring (SAMB) for the Dorset Heathlands. The Council do not dispute the content of the UU and have confirmed that the monies under the UU have been paid. Consequently, this part of the reason for refusal falls away. I shall consider the UU later in this decision.

Main Issues

5. The main issues are the effect of the proposal on:

- The character and appearance of the area;
- The living conditions of the occupants of 94 Barnes Crescent having regard to outlook, and;
- If harm arises, whether this is outweighed by other material considerations.

Reasons

Character and appearance

6. Barnes Crescent lies in an established residential area of Bournemouth. Although there are some bungalows present, the area is comprised predominantly of detached two-storey houses of a conventional form, with pitched and hipped roofs. Coherence is further derived from the underlying layout whereby dwellings have a regular set back, with their principal elevations having an open aspect that addresses the road. Notwithstanding the presence of some infill development, plot sizes are broadly regular. This generally results in clear building lines and good sized rear gardens between the houses fronting onto respective roads in the vicinity. The latter add spaciousness and greenery to the settlement pattern. Overall, this results in a pleasant and ordered sub-urban character and appearance to the area.
7. 96 Barnes Crescent is a two-storey detached dwelling at the corner of Barnes Road and Barnes Crescent. Its siting observes the building line around Barnes Crescent such that its side boundary is adjacent to Barnes Road. There is a detached single storey outbuilding/garage in the rear garden that is obviously subordinate in scale and form to the main dwelling. Hence, the appeal site possesses the characteristics described above and generally reinforces the prevailing ordered arrangement of buildings. Nevertheless, the house has been extended to the rear and the form of the two-storey flat roofed component jars with the otherwise hipped roof. To an extent this element detracts from the appearance of the street scene as it can be seen in some views from Barnes Road.
8. The proposal would demolish the existing garage and introduce a detached single storey, one bedroom dwelling. The sub-division of the plot would foreshorten the length of the rear garden at no.96 resulting in a plot size

³ Including Dorset Heathlands Special Protection Area and Ramsar Site, and the Dorset Heaths Special Area of Conservation.

smaller than that generally in evidence. To a degree, this would dilute the regularity of the settlement pattern.

9. The proposed dwelling would markedly increase the size, scale and massing of built form at this part of the site in comparison to the existing garage, thereby leaving limited space for landscaping. Furthermore, its function as a primary dwelling rather than an ancillary outbuilding would be different in character owing to the likely level of activity, lighting and domestic paraphernalia associated with such a use. These factors would adversely erode the spaciousness and opportunities for greenery at the appeal site.
10. It is not convincingly shown that the form of the proposed dwelling has been positively influenced by or would respect its immediate context. The use of a flat roof and shallow pitched roof would set it apart from the prevailing roofscape. The employment of large areas of glazing would result in proportions of solid to void different to that generally evident.
11. These elements would result in an aesthetic redolent of a modular chalet style or studio building and would appear incongruous in this context. The harm would be exacerbated by the increased visibility of the structure from Barnes Road and the presence of an oddly angled 1.5m high fence across approximately half of the principal elevation.
12. In addition, alterations would be made to the fenestration of the upper floors of no.96. Drawing no. 4498:3 shows that the first-floor rear facing windows would be removed resulting in a blank façade at first floor level. Combined with the flat roof this would create a stark, boxy, and unattractive building. Due to its prominent corner siting and elevated position within the dwelling, it would be readily seen from Barnes Road and so would be highly damaging to the street scene.
13. Consequently, the proposal would not constitute a development that would be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. As such, it would fall short of the requirements of paragraph 130b) of the National Planning Policy Framework (the Framework). My findings are further reinforced by the observations made by Bournemouth Civic Society.
14. In support of the proposal the appellants highlight its modest scale. However, this would not negate or address the harm that I have identified. My attention is also drawn to examples⁴ of residential infill development that the Council has permitted in the vicinity. Owing largely to the proximity to the appeal site, these are relevant to my determination. Nevertheless, given that plots of land are unique, there are differences between the dimensions of those plots and the resulting configuration of built form in comparison to the appeal scheme. Moreover, the form of dwellings permitted in those examples incorporated roof forms that better aligned with the context. Neither is it shown that any involved fenestration alterations at the host dwelling similar to that shown in this case. Accordingly, I am not persuaded that any are directly comparable and therefore, attribute limited positive weight to these examples. This is insufficient to lead me to a different view on this main issue.

⁴ Planning reference 7-2015-25706-A 48 Barnes Road, Planning reference 7-2015-19510-F Land off 2-4 Barnes Crescent, 29 Barnes Crescent: Appendices D, E and F, Appellants' Appeal Statement

15. Therefore, I find that the proposal would be harmful to the character and appearance of the area. Hence, it would conflict with policies CS20, CS21 and CS41 of the Bournemouth Local Plan: Core Strategy, October 2012 (CS) and saved policy 6.8 of the Bournemouth District Wide Local Plan, February 2002 (LP). Amongst other things, these policies seek development that achieves good design that respects its surroundings, is not out of character with the local area and maintains or positively enhances the street scene.

Living conditions

16. Amongst other things, policies CS21 and CS41 of the CS and saved policy 6.8 of the LP also require development to respect the amenities of neighbouring residents.
17. The proposed dwelling would be sited close to the side boundary that adjoins the rear garden of 94 Barnes Crescent. Notwithstanding the flat and shallow pitched roof, the height of the structure would be seen above the 2m high close boarded fence along the boundary, and so would be visible from the neighbouring garden.
18. The structure would lie proximate to most of the length of the rear garden of no.94, giving it an obvious presence from the neighbouring garden. Such an effect would provide a poor outlook and feeling of enclosure in comparison with the otherwise generally spacious character of rear gardens. Consequently, it would have an unreasonably confining effect on the residents when seeking to use their rear garden. It is reasonable to suppose that neighbouring residents would seek to spend extended periods of time within their rear garden for enjoyment and relaxation, which would compound the harmful effect.
19. As such, the proposal would fall short of providing a high standard of amenity for existing users as stipulated in paragraph 130f) of the Framework.
20. Accordingly, I find that the proposal would result in unacceptable harm to the living conditions of the occupants of 94 Barnes Crescent owing to the adverse effect on outlook from their rear garden. Therefore, further conflict would arise with policies CS21, CS41 of the CS and saved policy 6.8 of the LP in this regard.

Other matters

Other considerations

21. The information provided⁵ indicates that the Council can demonstrate only a 2.3 year housing land supply and that the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Hence, there is a significant shortfall in delivery relative to the housing need.
22. The proposal would make more efficient use of the land to provide an additional bungalow. This would assist in boosting the overall supply and mix of housing in the area and the development plan generally seeks to encourage the provision of small family dwellinghouses. Recognition is given to the important contribution small sites can make to meeting housing requirements in paragraph 69 of the Framework. In addition, the proposal would allow good

⁵ Paragraph 5.42, Appellants' Appeal Statement & paragraph 5.24, Council's Appeal Statement

access to a range of services and facilities meaning that occupants would have a genuine choice as to means of travel other than the car. Furthermore, there would be economic benefits associated with the construction and activity of future occupants.

23. These represent important benefits that weigh in favour of the proposal. Even so, the extent of benefits accruing from a single dwelling would be limited. Nevertheless, in the context of the extent of the shortfall in housing delivery, I attribute considerable positive weight to the cumulative benefits.

International designated sites of importance for biodiversity

24. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document, April 2020 (SPD) indicates that any net increase in residential development within 5 kilometres will have an adverse impact on the Dorset Heathlands and sets out the Council's approach to mitigating the adverse effects of new housing development. In this case, the Council indicate that a financial contribution of £428 towards SAMMs would accord with the established mitigation framework. Policy CS33 of the CS states that development will not be permitted unless it can be ascertained that it will not lead to an adverse effect upon the integrity, directly or indirectly, of the Dorset Heaths international designations.
25. The appellants have provided a signed and dated UU containing a planning obligation that secures the requisite amount, the content of which is not disputed by the Council. I am satisfied that the obligation would be necessary to make the development acceptable in planning terms, is directly related to the development and would be fairly and reasonably related in scale and kind to the development. Therefore, it meets the 3 tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).
26. However, given my concerns in relation to the main issues outlined above, I have not proceeded to undertake an appropriate assessment nor sought the views of Natural England under the Habitat Regulations, as this is not a matter likely to be determinative in this case.

Planning balance and conclusion

27. Given my findings in relation to the main issues, the proposal would conflict with the development plan when taken as a whole. However, the Council is unable to demonstrate a five year supply of deliverable housing sites. Based on this factor alone, paragraph 11d) of the Framework deems that the policies which are most important for determining the application are out of date. The presumption in favour of sustainable development means that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or (ii) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
28. In relation to the main issues, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits I have found when assessed against the policies in the Framework taken as a whole. This is because there would be permanent harm caused to the character and appearance of the area. The Framework stipulates that good design is a key

aspect of sustainable development⁶ and that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Moreover, the harm to the living conditions of existing residents would not achieve the high standard of amenity stipulated by the Framework. As a result, the presumption in favour of sustainable development would not apply.

29. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁷. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁶ Paragraph 126 NPPF

⁷ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.