



# Appeal Decision

Site visit made on 19 July 2023

**by Alexander O'Doherty LLB (Hons) MSc MRTPI**

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

**Decision date: 9<sup>th</sup> August 2023**

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## **Appeal Ref: APP/V1260/W/22/3299875**

### **147A Rosemary Road, Parkstone, Poole BH12 3HE**

- 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 Paul Shepherd against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref APP/21/01499/F, dated 16 August 2020, was refused by notice dated 9 December 2021.
  - The development proposed is change of use from a garden room and WC to self contained dwelling.
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## **Decision**

1. The appeal is dismissed.

## **Main Issues**

2. The main issues are the effect of the proposed change of use on:
  - the character and appearance of the area; and
  - the living conditions of the future occupiers of the proposed dwelling, with particular regard to privacy, outlook, and the provision of internal space and private amenity space, and the living conditions of the occupiers of 147A Rosemary Road, with particular regard to privacy, security, and noise and disturbance.

## **Reasons**

### *Character and appearance*

3. The appeal site contains a detached single-storey outbuilding, described on the plans as a games / storage room and described on the application form as a garden room. It was built over 5 years ago. The outbuilding is situated to the rear of 147A Rosemary Road (No 147A) and 147 Rosemary Road (No 147) in a predominantly residential area, and is accessed from an existing tarmac driveway which separates No 147A and 149 Rosemary Road.
4. This section of Rosemary Road, between Good Road and Marie Close, contains a variety of dwelling types, including flats near the corner of Good Road, and 145 Rosemary Road which is a 2-storey dwelling. However, bungalows predominate. Most of the nearby dwellings benefit from garden areas to their rear. Rosemary Road as a whole also contains a varied assortment of dwelling types with fair-sized garden areas which often contain outbuildings. As noted by the Inspector in appeal decision Ref APP/Q1255/W/17/3167094, while backland development is not commonplace, it is nevertheless a recognisable feature both within sections of Rosemary Road and the wider area.

5. Although the main parties are in dispute as to whether plot severance has already occurred, it is common ground between the main parties that the use of the outbuilding is ancillary to its host dwelling, that being No 147A. In this regard, in the context of this appeal it is not my role to provide a formal determination as to whether or not plot severance has occurred.
6. Nevertheless, I observed that the outbuilding is separated from No 147A by a fence. The front of the outbuilding also faces a fence, within which a gate provides access to a short paved path leading to the outbuilding. Even so, considering the clearly subordinate scale of the outbuilding in comparison with No 147A, its position to the rear of No 147A, and the limited views of the rear fence behind No 147A from Rosemary Road, a casual observer walking along Rosemary Road would be likely to perceive the outbuilding as currently being part-and-parcel of the residential use of No 147A.
7. Reference has been made to the outbuilding being used as an independent office to run an oil painting export business, with worldwide exports of paintings occurring. I have had regard to the submitted affidavit<sup>1</sup> in this respect. However, whilst daily collections and deliveries of paintings have been mentioned with vans and trucks said to be regularly coming and going (including along the driveway), few specific details have been provided to illustrate the amount of vehicle movements that this business has generated over any given period.
8. Hence, it has not been demonstrated that this business has resulted in significant numbers of vehicle movements or comings and goings to the outbuilding in general. Indeed, the submitted Design and Access Statement highlights that the proposal would result in an increase in vehicular use in Rosemary Road and the surrounding community. Furthermore, I note that the appellant has stated that the pandemic rendered this business redundant, which raises questions as to its current relevance to the appeal proposal.
9. In any event, I have not been informed that a material change of use has occurred and as such any business use occurring on site would ordinarily be for a purpose incidental to the enjoyment of No 147A, rather than being for a more intensive commercial use. Similarly, the affidavit refers to the outbuilding as being an annexe, and the running of an oil painting export business does not change the fundamental status of the appeal site as being part-and-parcel of the residential use of No 147A. I have assessed the proposal on this basis.
10. The proposal would change the use of the outbuilding to a self-contained independent dwelling. As it would be occupied by a new household, independent of No 147A, in all likelihood the proposal would result in a much greater amount of comings and goings than would ordinarily occur, including by way of the parking of private vehicles and the comings and goings of people to and from the dwelling. Moreover, given that much of the eastern side of the site would be used as private amenity space, the domestic paraphernalia associated with a separate household would likely be visible from Rosemary Road. These factors would indicate that the structure would be in independent residential use, when viewed from public vantage points.
11. The use of the land to the eastern side of the structure would ensure that the dwelling would not appear cramped within its plot and that a sufficient amount

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<sup>1</sup> Affidavit of residence (dated 20 September 2022)

and an adequate shape of private amenity space would be provided. Accordingly, the proposal would not conflict with part (2) of Policy PP28 of the Poole Local Plan (adopted 2018) (Local Plan) in these respects. However, due to its shape, its scale in comparison with No 147A, and the lack of any particular architectural features to distinguish it from appearing as an outbuilding, the outbuilding currently does not have the appearance of a bungalow, or any other type of residential dwelling.

12. The proposal does not involve the erection of a new building. Nevertheless, upon completion of the proposed change of use, the structure would still have the outward appearance of an outbuilding and its siting significantly set-back from Rosemary Road would reinforce this visual impression. Consequently, it would appear from Rosemary Road as being an outbuilding in independent residential use, and in this regard it would not sufficiently reflect the appearance of other nearby dwellings along Rosemary Road, including with respect to its size, scale, and architectural design.
13. In this way, although it is a low-lying structure, it would still be visible in the street scene and in this regard its design would not complement either its function as a residential dwelling, nor the appearance of other nearby dwellings which are clearly recognisable as dwellings. Taking all of the above into account, the proposal would undermine the currently-distinctive residential identity of Rosemary Road, thereby harming its character and appearance.
14. I observed all of the examples of backland development put forward by the appellant, from public vantage points. In particular I note that the development to the rear of 63 to 67 Rosemary Road appears from Rosemary Road as consisting of a cohesive group of properties with parking areas in front, akin to a distinct mini-estate, rather than a stand-alone building such as that involved in this appeal. Appeal decision Ref APP/Q1255/W/17/3167094 referred to a dwelling of a contemporary design, and the property presently situated to the rear of 84 Rosemary Road clearly has the appearance of a dwelling, which for the reasons given above would not be case with respect to the structure which is the subject of this appeal. I note that the permission to the rear of 81 and 83 Rosemary Road<sup>2</sup> related to the erection of 3 terraced dwellings, rather than a change of use for a single structure.
15. Accordingly, none of the specific examples referred to above are directly comparable with the appeal proposal, and they do not change my findings as a result. The considerable deficiencies of this particular proposal, referred to above, are such that the fact that backland development has already occurred along Rosemary Road and as such forms part of the character of the area (as recognised by the Inspector in appeal decision Ref APP/Q1255/W/17/3167094), is not a sufficiently persuasive reason to alter my findings on this main issue.
16. I therefore find that the proposed change of use would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with part (1)(a)(vi) of Policy PP27 of the Local Plan which provides that, amongst other things, development will be permitted provided that, where relevant, it reflects or enhances local patterns of development and neighbouring buildings in terms of visual impact.

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<sup>2</sup> APP/20/00429/F

17. The proposal would also conflict with paragraph 130 c) of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character.

*Living conditions*

18. Windows are present on the rear dormer of No 147, which face towards the site and which provide views over it, as shown in the photograph submitted by the appellant<sup>3</sup>.
19. Although the appellant has explained that these windows serve a stairway leading up to a guest bedroom, the presence of these windows in close proximity to the boundary of the site with No 147, and their elevated position, would mean that a strong perception of being overlooked would exist for users of the private amenity space immediately around the proposed dwelling. In particular, the perception of there being a direct line of sight from those windows towards the outside space behind the rear elevation of the proposed dwelling would not accord with reasonable expectations of privacy in this built-up residential area. Harm to the living conditions of the future occupiers of the proposed dwelling via a perceived loss of privacy would thereby result.
20. The appellant has referred to the 37 square metres requirement found in the Technical housing standards – nationally described space standard (March 2015 (amended 19 May 2016)) (Technical housing standards), for a single-storey dwelling with 1 bedroom and a bed space for 1 person (with a shower room instead of a bathroom). However, the Council have calculated that the internal floorspace of the proposed dwelling would be approximately 34.68 square metres, and a higher figure than this has not been provided by the appellant. On this basis, the proposed dwelling would not meet the requirements of the Technical housing standards.
21. Whilst the shortfall would be less than approximately 2.5 metres, the shortfall indicates that the proposed dwelling would offer cramped living conditions for the future occupiers of the proposed dwelling, and this is consistent with my observations. The provision of adequate outdoor private amenity space would not sufficiently compensate for this shortfall, as it is a different type of space and in any event would not always be particularly pleasant to use, such as in inclement weather or during the winter months, for example.
22. It follows that the proposal would result in harm to the living conditions of the future occupiers of the proposed dwelling, with particular regard to the provision of internal space. Whilst mention has been made of the living accommodation at No 147 and No 147A and at the 3 bedroom properties on Chloe Gardens and Marie Close, no floorspace figures have been provided. As such, meaningful comparisons with the proposal cannot be made. Thus, these examples do not change my findings. Reference has been made to extending the outbuilding, but as extensions do not form part of the appeal proposal, this matter also does not change my findings.
23. The addition of the space to the east of the structure, including the accessway and the area presently used for storage, would ensure that the future occupiers of the proposed dwelling would enjoy an adequate level of outlook from the

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<sup>3</sup> Appendix XI - Photo of view into the garden

windows on the front elevation of the property. The windows on the rear elevation would have restricted views due to the presence of the fence to the rear of the property, but as that fence is set away somewhat from those windows and views above the fence would be possible, on balance I find that the outlook from the windows in the rear elevation of the proposed dwelling would also be acceptable.

24. The addition of this space would also ensure that the proposed dwelling would have sufficient private amenity space such that the enjoyment of this space by the future occupiers of the proposed dwelling would not be compromised. These findings do not however overcome the harms identified above.
25. No 147A contains east facing windows, facing towards what is currently the existing tarmac driveway on site. One of these windows is obscure glazed, meaning that the proposal would not be likely to affect the privacy of the occupiers of No 147A with respect to that window. Mention has been made of increasing the height of the existing fence, which potentially could be erected under permitted development rights, with an area of outlook being retained above that fence. In these circumstances, I am satisfied that the proposal would not harm the living conditions of the occupiers of No 147A, with particular regard to privacy and security. Again, this matter does not overcome the harms identified above.
26. Although the Council has raised concerns in relation to the enjoyment of the private amenity space at No 147A and the occupier of No 147 has raised similar concerns with respect to increased activity on site, considering that the site is located in a high density residential area where often modestly-sized gardens lie directly adjacent to each other, and noting that the proposed dwelling would contain 1 bedroom only, on balance I am satisfied that the proposal would not harm the living conditions of the occupiers of No 147A nor No 147 with respect to noise and disturbance, even taking account of occasional visitors to the site. This is not a matter which overcomes the harms identified above.
27. I therefore find that the proposal would have an unacceptable and harmful effect on living conditions of the future occupiers of the proposed dwelling, with particular regard to privacy and the provision of internal space. The proposal would conflict with parts (1)(c) and (1)(d) of Policy PP27 of the Local Plan which provides that, amongst other things, development will be permitted provided that, where relevant, it is compatible with surrounding uses and would not result in a harmful impact upon amenity for future occupiers considering levels of privacy, and provides satisfactory internal amenity space for new occupiers.
28. Although the Council made reference to Policy PP12 of the Local Plan, as this policy relates to care homes and other forms of specialist housing which are not specifically proposed in this appeal, this policy is not directly relevant to this main issue. Nevertheless, the above-mentioned policy is more than sufficient for me to come to a view on this main issue.

### **Other Matters and Planning Balance**

29. The conduct of the Council during the processing of the planning application is not a matter that I can assess in the context of a planning appeal.

30. It is common ground between the main parties that, due to the Housing Delivery Test results for the Poole Local Plan area, paragraph 11 d) ii. of the Framework is engaged. As such, I would consider the most important policies out-of-date and apply the requirement that planning permission should be granted for the proposal unless 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.
31. The proposal would provide 1 new unit of residential accommodation in an accessible residential area, thereby contributing to housing delivery in Poole, and assisting with the Government's objective of significantly boosting the supply of homes. It would also contribute to housing choice and mix in the local area, including potentially for older people and those seeking to downsize.
32. The future occupiers of the proposed dwelling would likely contribute to the local economy and to the community life of the area. As it would provide a smaller home, it could potentially meet the needs of local people who have been struggling to purchase a property (including younger people), although as no figures have been provided to demonstrate its affordability in this respect this reduces the weight which can be given to this matter.
33. Although the proposal would in principle make an efficient use of land, the weight accorded to this is reduced as a consequence of my findings on the first main issue, taking account of paragraph 124 (e) of the Framework which provides that, amongst other things, planning decisions should support development that makes efficient use of land, taking into account the importance of securing well-designed and attractive places.
34. The submitted Energy and Resource Statement demonstrates that the proposal would comply with the relevant requirements of Policy PP37 of the Local Plan which relates to building sustainable homes, and a planning condition could be imposed to ensure that the appropriate level of renewable energy sources would be provided.
35. Overall, the proposal would result in a net gain of only 1 new dwelling which would provide a minor contribution to addressing the shortfall of housing delivery, and in turn the impacts of the various economic, social, and environmental benefits as summarised above would be minimal, resulting in limited weight in favour of the proposal.
36. The proposal would give rise to adverse impacts in relation to its unacceptable and harmful effect on the character and appearance of the area, and its unacceptable and harmful effect on living conditions of the future occupiers of the proposed dwelling, in the terms that I have described above. I am mindful that the Framework provides at paragraph 126 that, amongst other things, the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and accordingly I give substantial weight to this harm.
37. Setting the substantial weight of this harm against the limited weight I have given to the benefits that I have found, I find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Hence, the proposal would not benefit from the presumption in favour of sustainable development, found at paragraph 11 of the Framework.

38. As mentioned in the third and fourth reasons for refusal given in the Council's decision notice, the Council considers that the proposal has the potential to have adverse effects on designated conservation sites. However, as I am dismissing the appeal for other reasons, there is no need to consider the potential implications of the proposal in these respects, including with respect to Strategic Access Management & Monitoring Contributions. I therefore make no further comments on these matters (including with respect to the letter of 12 September 2022 which concludes that the proposal does not constitute Environmental Impact Assessment development).
39. Had my findings in relation to the main issues been more favourable, it would have been necessary to address representations on the other issues raised by local residents in more detail. However, as I am dismissing the appeal for other reasons, with the overall outcome of the appeal having been determined, I make no further comments on these matters.

### **Conclusion**

40. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

*Alexander O'Doherty*

INSPECTOR