
Appeal Decision

Site visit made on 16 August 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/V1260/D/22/3313460

4 Stour Road, Bournemouth BH8 8SY

- 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 Spencer against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2021-28388, dated 19 November 2021, was refused by notice dated 30 September 2022.
 - The development proposed is for single storey side and 2 storey side extensions.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The living conditions of the occupants of 2a Stour Road having regard to outlook and their rear garden;
 - The character and appearance of the area, including trees, and;
 - Surface water drainage.

Reasons

Living conditions

3. Policy CS41 of the Bournemouth Local Plan: Core Strategy, October 2012 (CS) seeks to ensure, amongst other things, that new developments enhance the amenities of future occupants and neighbouring residents. This aligns with paragraph 130(f) of the National Planning Policy Framework (the Framework) which stipulates that planning decisions should ensure that developments create places with, amongst other matters, a high standard of amenity for existing and future users.
4. The supporting text to policy CS41 confirms that the Residential Extensions Design Guide forms part of the best practice guidance to assist in interpreting local and national policies. Both parties refer to the Residential Extensions: A Design Guide for Householders, adopted September 2008 (the design guide) and I have had regard to it in making my determination.
5. Section 2.2 of the design guide sets out basic design principles that relate to all types of residential extension or alteration. Basic principle 3 states that

proposals should not have an adverse effect on the living conditions or the amenity of neighbouring residents. It identifies three main things to consider as part of the principle, one of which is whether the proposal would be overbearing or oppressive to neighbours. The guidance given in this respect is that large extensions positioned too close to neighbouring property can affect the outlook from the rooms of the neighbouring property or result in the loss of enjoyment of a private garden¹. In this respect, the parties disagree as to the impact of the proposed rear extension that forms part of the appeal proposals.

6. It is proposed to extend No.4 by approximately 3 metres beyond its existing rear wall². This extension would be two storey, matching the existing roof ridge height and would be positioned close to the side boundary with the rear garden serving 2a Stour Road. The combination of the volume, height and proximity would mean that the additional built form would have an obvious and immediate presence for the neighbouring residents at No.2a when in their rear garden.
7. The position of the rear projection would broadly align with an area situated to the east of the main dwelling at No.2a. Owing to its proximity to the rear elevation of the main dwelling, this is a generally private area of the garden conveniently located for easy access to the house. Consequently, it is likely to be more intensively used by the occupants. Moreover, it is foreseeable that occupants would use the area for sitting out, relaxation and to enjoy the garden, thereby spending prolonged periods in the space. This was reinforced by my observations of the area which contained outdoor furniture.
8. The rear extension proposed at No.4 would present a two storey, largely blank elevation towards this area that would be considerably higher than the boundary fence. As such, it would have an unescapable looming presence for those sitting in the garden space, especially for those that may sit facing southwards to maximise sunlight. Therefore, it would have an unacceptably adverse impact on the outlook from the rear garden.
9. At my site visit I was able to visit the rear of No.2a. The dining room is situated in an inset area behind the garage close to the boundary with the appeal site and is served by glazed doors. Given the proximity of No.4, it already has a significant impact on the outlook from this room. The elongation of built form at the rear of No.4 would compromise the outlook from the dining room further and would result in a tunnelling effect. Furthermore, the area of outdoor space at No.2a situated in the inset close to the dining room would feel more constrained and uninviting and consequently, a less pleasant experience within which to spend time, which would exacerbate the harmful impact on the garden for No.2a.
10. Although not identified by the Council as a concern, the impact on the outlook of the dining room counts further against allowing the proposal. However, given the harm I have already identified in relation to the garden, this is not a matter that would be determinative in relation to this main issue, and it is therefore unnecessary to ask the parties to comment further on it.

¹ Page 7

² Paragraph 1.12, Appellants' Statement of Case

11. The appellants point out³ that there would be approximately 12 metres of garden along the boundary where there is no built form harming the outlook from the garden of No.2a. However, the proximity and alignment of the rear extension relative to the areas of the adjacent rear garden closest to the house would have a disproportionately harmful effect. In any event, the modest size and irregular shape of the rear garden at No.2a would limit opportunities for equally convenient sitting out areas. Neither would this address my concerns regarding the outlook from the dining room.
12. Taking these factors together, the proposal would not enhance the amenities of neighbouring residents as required by policy CS41 of the CS, nor would the configuration result in a high standard of amenity as advocated by the Framework.
13. My attention is drawn to the gap between the houses at 2a and 4 Stour Road which is occupied by the garage and dining room at no.2a. The appellants⁴ contend that this gap would lessen the impact of the development upon the south-eastern facing rooms at no.2a than would have been the case had the two dwellings been attached. Reference is also made to the existing relationship between 2a and 2 Stour Road, which the appellants' assert is significantly worse than would be the case with the proposal. Be that as it may, these factors would not address nor outweigh the harm that I have identified. It does not follow that a comparison with other undesirable scenarios would make the proposal acceptable on its own merits, or compliant with the high standard of amenity referred to in national planning policy.
14. It is put to me that the proposal would accord with the 45 degree line guidance outlined in section 3.1 of the design guide in relation to overshadowing and outlook. On that basis it is asserted that the rear extension would be unlikely to harm the light levels and outlook from within the house at No.2a. Nevertheless, the analysis⁵ relates to a lounge window at No.2a rather than the fenestration that serves the dining room which is both closer and inset relative to No.4. Accordingly, I cannot be certain that the guidance would be met in relation to the dining room.
15. In any event, the design guide confirms that the consideration of whether a proposal would be overbearing or oppressive is not confined to views from within the dwelling, it also includes consideration of outlook from a private garden. It does not follow that adherence to the 45 degree rule guidance measured in relation to windows means that there would be no adverse impact upon the outlook from the rear garden. It will be seen from the above, that I have found otherwise.
16. The appellants have conclusively established that the appeal property can be extended to the side and rear under permitted development rights by way of a certificate of lawfulness⁶. This is a relevant material consideration, especially given that the appellants confirm that it is in the process of being built⁷ which was consistent with my observations. However, the rear extension found to be lawful is single storey and has a flat roof. Therefore, it is significantly lower in height and volume by comparison with the two storey rear extension before

³ Paragraph 1.14, Appellants' Statement of Case

⁴ Paragraphs 1.12 & 1.14, Appellants' Statement of Case

⁵ Fig. 9, Appellants' Statement of Case

⁶ Reference 7-2022-28388-A, Appendix A, Appellants' Statement of Case

⁷ Paragraph 1.6, Appellants' Statement of Case

me. As such, it would have a considerably more limited effect on the outlook from the garden of 2a. Hence, in relation to this main issue, support is not derived from this 'fall-back' position.

17. Accordingly, I find that the proposal would have a harmful impact on the outlook from the rear garden of no.2a such that the living conditions of the occupants would be unacceptably compromised. It would also further compromise the outlook from the dining room. Therefore, the proposal would conflict with policy CS41 of the CS.

Character and appearance

18. Stour Road is comprised predominantly of detached residential villas dating from around the late 19th or early 20th centuries. There is a notable degree of consistency in the regular siting, rhythm, form, architectural detailing, and use of materials. The established gardens generally contain planting and trees that complement and soften the built form. Although there are some minor alterations and additions, these do not distract from the principal elevations in the street scene. These factors combine to enrich the character and appearance of the area resulting in a pleasant, coherent and distinctive residential area.
19. No.4 is one such detached villa that reflects the qualities outlined, and therefore reinforces and positively contributes towards the character and appearance of the area.
20. There are two main components to the proposal, namely a single storey lean to side extension and a two storey rear extension. There is no dispute between the parties that the single storey side extension would be in keeping with the host dwelling and pattern of development⁸. Based on my observations of the prevalence of single storey side garages and extensions I see no reason to disagree.
21. The Council consider that the proposed two storey rear extension would not be subservient to the main dwelling. In addition, they have concerns regarding the roofing material, lack of brick banding detailing and fenestration.
22. The rear extension would match the roof ridge and eaves level of the main dwelling. It would also replicate the existing hipped roof form to the rear. As such, it would reflect the character of the host dwelling, albeit in an elongated form. In this respect the proposal would follow the guidance in section 3.1 of the design guide specific to rear extensions. This states that the height of the extension and its roof design should be in keeping with the building and its surroundings and that the roof form on the extension should tie the addition in with the existing property.
23. Basic principle 2 of the design guide advises that proposed extensions should not dominate the existing building and that extending exactly in line with it can make the existing building unbalanced. In these circumstances, setting the roof ridge down, and using set backs would assist. Nevertheless, this is generic guidance rather than a mandatory requirement in all cases.
24. In this instance, owing largely to the position of the extension deep into the plot and to the rear of the property, the extension would be inherently

⁸ Page 16, Council's Delegated Report

- subservient to the main house. As a result, it would not be easily seen within the street scene and would avoid dominating the host dwelling.
25. Moreover, the appellants confirm⁹ that the materials proposed would be identical to the existing dwelling. In the event of any doubt, the employment of a planning condition could ensure amongst other things, matching roof tiles and brick banding were used.
26. There are some differences between the proportions and detailing of the fenestration on the proposed rear elevation in comparison to the existing rear elevation. However, this would relate to the least publicly visible part of the building, and therefore the least sensitive in terms of the likely effect on the coherence of the street scene. My general observations were that many properties in the road have successfully assimilated various alterations and extensions to the rear without undermining the important qualities of the street scene. Hence, the built form is not so uniform to the rear that it would be unable to withstand some limited variation to fenestration without resulting in harm.
27. Drawing these factors together, the proposals would be in keeping with the character and appearance of the area and would broadly accord with the guidance in the design guide. My finding on this point is further reinforced by the comments of the Bournemouth Civic Society who considered that the design would satisfy the townscape policies of the development plan. Given that I consider the proposal acceptable in this respect, the existence of the certificate of lawfulness and a fall back position would be inconsequential.
28. The Council raise further concerns that insufficient information in relation to a tree in the rear garden of the appeal site, and one at the adjacent property has been provided. These established trees add greenery and although not in a prominent position, make a limited positive contribution to the character and appearance of the area.
29. The trees would be some distance from the proposed extensions, and the Council accepts that the proposals would not fall within the root protection zones of the trees. Rather their principal concern relates to uncontrolled activity during construction causing damage¹⁰. In these circumstances, given that there is general agreement that harm could be avoided, this is a matter that could be adequately addressed by a planning condition to agree protection measures for the trees. Such an approach would broadly accord with paragraph 55 of the Framework which states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.
30. On that basis, I find that the proposal would respect the site and surroundings such that it would preserve the important qualities of the character and appearance of the area, including trees. Consequently, in this respect I find no conflict with policies CS30 and CS41 of the CS which seek to promote green infrastructure and secure a high quality of design respectively. Furthermore, the landscaping objectives included in saved policy 4.25 of the Bournemouth District Wide Local Plan, February 2002 could reasonably be addressed by planning condition in this instance. Hence, I find no conflict with it.

⁹ Paragraph 1.9, Appellants' Statement of Case

¹⁰ Page 17, Council's delegated report

Surface water drainage

31. Policy CS4 of the CS requires the design and layout of all new buildings, and the development of car parking and hard standing, to incorporate appropriate Sustainable Drainage Systems capable of ensuring that the level of surface water leaving the site is no greater than that prior to the development and ensuring the quality of local water. Neither the policy wording nor supporting text explicitly specify that 'new buildings' includes extensions to existing buildings.
32. Moreover, there is little evidence before me to suggest that the area is prone to surface water flooding nor that there has been a history at the site of surface water drainage problems.
33. The proposal would increase the built coverage of an existing residential plot by a relatively modest amount. In the absence of any technical evidence to show otherwise, it would be unusual that surface water drainage could not be adequately dealt with. In any event, the fall back position establishes that development with a similar footprint can be lawfully built. This development is underway and would be likely to have similar implications for surface water drainage as the appeal proposal.
34. In these circumstances, it would be proportionate to require such details to be agreed by way of a planning condition. On that basis, I consider that harm would not arise from inadequate surface water drainage arrangements and therefore, the proposal would not conflict with policy CS4 of the CS.

Conclusion

35. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹¹. Although I did not find harm in relation to character and appearance or surface water drainage, I did find unacceptable harm would arise in relation to the first main issue. Consequently, the proposal would conflict with the development plan as a whole. Therefore, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹¹ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.