



Appeal Decision

Site visit made on 12 September 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

Appeal Ref: APP/V1260/W/23/3314026

Land adjacent 4 Elmsway, Bournemouth

- 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 Humphreys against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2022-6750-C, dated 12 August 2022, was refused by notice dated 14 October 2022.
 - The development proposed is described as the erection of a 2-bed house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal was originally submitted to the Council showing the private lane to the side of the site as falling within the red line. However, the Council state that the land does not appear to be in the ownership of the appellant as the necessary ownership certificates were not lodged with the Council.
3. The Council confirm that the appellant was given the option to address this issue, e.g. by submitting the ownership certificates. However, the appellant provided a revised red line plan, omitting the private lane. In the absence of any further evidence in this regard, I have determined the appeal on this basis.
4. The Council suggests there are alleged discrepancies on the submitted drawings. They state the front and side elevations give slightly different dimensions relative to the proposed dormer window (+/- 0.2m) and the eaves height (+/- 0.15m).
5. The appellant appears to make no rebuttal. Nevertheless, and despite this, the Council came to a decision based on these submitted drawings. For these reasons and given the degree of the alleged discrepancies, I am satisfied that I have sufficient information to assess the impact of the proposed development.

Main Issues

6. The main issues are the effect of the proposed development upon the:
 - Character and appearance of the area;
 - The living conditions of neighbouring residential occupants with particular reference to light, privacy and outlook;
 - The living conditions of future residential occupants with particular reference to light and internal layout;

- Waste and recycling servicing; and
- Car and cycle parking provision.

Reasons

Character and Appearance

7. To one side of the appeal site, beyond the private lane, 2 Elmsway a two storey dwellinghouse sits on the corner of Elmsway and Tuckton Road. To the other side, 4 Elmsway sits next to the appeal site and 6 Elmsway sits adjacent to No 4. Nos 4 and 6 while two storey have lower eaves and appear as chalet bungalow style dwellings.
8. Elsewhere, the immediate street scene comprises a bungalow which visually appears as a single storey building as well as more traditional two storey dwellings with some variation to the character and appearance of these buildings.
9. Given the proximity to each other and its siting adjacent to them, the proposed development would be seen as a part of and within the context of Nos 4 and 6. Both existing dwellings have a similar eaves height, comparable footprints, and a chalet bungalow appearance. These features are important in framing the character of this part of the road and make an important contribution to local distinctiveness.
10. The proposed development would have a higher eaves height than Nos 4 and 6 and considerably narrower width. This would harmfully contrast with the established theme of Nos 4 and 6 along this section of Elmsway creating a jarring and unacceptable imbalance along this part of the street.
11. I accept there is some variation elsewhere, including the adjacent neighbour No 2. However, this neighbour is set a further distance away and its visual relationship with the appeal site is therefore different.
12. I realise that other lower scaled buildings have an eaves mismatch with adjacent properties elsewhere in the street scene. However, I find these to be the exception, and these do not have considerably narrower plots than their immediate neighbours. Even so, the presence of unsympathetic development in the street scene does not justify recreating it elsewhere in this case.
13. The drawings show the proposed development's depth would also follow the character of these closest neighbouring buildings. A bay window, barn hipped roof and white render with lower facing brick walls would all be proposed which nod to the existing vernacular. However, these features would not outweigh the harm identified above.
14. Notwithstanding the uncertainty surrounding access to the rear of the appeal site, waste storage is shown to the rear and this would have limited visual impact upon the character and appearance of the area. I would also not envisage bins and waste containers to be permanently placed at the collection area other than around collection days.
15. The proposed development, however, by reason of its higher eaves and narrower width would fail to sympathetically respond to the existing character and appearance off the immediate area and the quality of the local environment.

16. The proposals would therefore fail to comply with the relevant provisions of Policies CS22 and CS41 of the Bournemouth Local Plan: Core Strategy (2012) ("The Core Strategy"), Saved Policy 6.8 of the District Wide Local Plan (2002) ("The Local Plan"), 'Residential Development: A Design Guide' (2008) ("The Design Guide") and the National Planning Policy Framework ("The Framework"). All of which, amongst other things, require development proposals to contribute positively to the appearance of the public realm.

Neighbouring Occupants

17. The proposed development would be sited close to two ground floor flank facing windows at 4 Elmsway. These windows appear to provide outlook and light to habitable rooms.
18. The proposed development would spread across and beyond both sides of these facing windows. It would also be separated by an access which serves No 4. However, the proximity of the proposed development in combination with its depth and height would visually dominate the outlook from the rooms these windows at No 4 serve. In the absence of any evidence to the contrary, this would create an unacceptably oppressive and overbearing effect.
19. For the same reasons, it has not been robustly shown that the proximity, in combination with the depth and height of the proposed development, would provide conditions which would acceptably deliver daylight and sunlight through these windows.
20. I observed other dwellings which face the street and are separated by similar distances. However, there is no evidence before me to suggest these dwellings have sensitive windows in their flank elevations directly comparable to the current appeal proposal. I have considered this appeal on its own merits having regard to the specific circumstances before me.
21. Given the height of the facing rooflight serving No 4 and its upward field of outlook, any impact to this rooflight would be limited. The proposed development would also not substantially extend beyond the front or rear walls of No 4. For these reasons any impact in regard to light or outlook to the remaining windows or private garden area of No 4 would be acceptable.
22. The separation, screening, depth, and height of the proposed development in relation to 2 Elmsway, would ensure that any impact regarding light or outlook would be limited and therefore acceptable.
23. Proposed flank upper floor rooflights would be obscure glazed if below 1.7m of finished floor level. These would serve secondary openings and it would not be unreasonable to obscure glaze and fix shut any upper floor flank glazing which would be below 1.7m of finished floor level. Appropriately worded conditions could achieve this.
24. I note that finished floor levels are not shown on the plans and the Council has identified some discrepancies as set out earlier in my decision. However, if a section of clear glazing or an opening is below 1.7m of finished floor level, once the development is complete, this could be reasonably enforced. I therefore consider a condition to achieve this would be precise and enforceable.
25. First floor rear facing windows are not unusual in urban areas which share a flank-to-flank relationship and while such a window would achieve some

overlooking of No 4, this is not considered to be unacceptable. Any other views from this window would be across less sensitive garden areas of the other neighbouring dwellings. As a result, the privacy of Nos 2 and 4 would not be unacceptably harmed.

26. However, for the reasons set out above, the proposed development would have an unacceptable impact on the living conditions of the residential occupants at 4 Elmsway with particular reference to light and outlook. The proposal would therefore unacceptably conflict with the relevant provisions of Policies CS22 and CS41 of the Core Strategy, Saved Policy 6.8 of the Local Plan, the Design Guide and the Framework. These, amongst other things, address the need for high quality design therefore respecting the living conditions of residential occupiers.

Future Occupiers

27. I note the sloping nature of the proposed roof and the limited usable floorspace at first floor caused by this reduction of head clearance. From the evidence before me it has not been sufficiently shown that either bedroom or the staircase would avoid a space which would be cramped, oppressive, difficult to fit furniture in or provide general internal circulation space.
28. Habitable rooms would benefit from windows to the front or rear of the proposed development and roof lights would also supplement upper floor lighting. Dining facilities would be provided to ground floor kitchen dining area. I find these aspects of the proposed development to be acceptable for future occupiers.
29. However, the proposed floorspace at first floor would not provide acceptable living conditions for future occupants. The proposal would unacceptably conflict with the relevant provisions of Policies CS22 and CS41 of the Core Strategy, Saved Policy 6.8 of the Local Plan, the Design Guide, and the Framework. These, amongst other things, address the need for high quality design respecting the living conditions of residential occupiers.

Waste and Recycling

30. Bin storage is shown to the rear of the appeal site. Kerbside collections would take place from the front and accordingly bins would need to be dragged to the front of the property on collection day. As set out in my preliminary matters above, use and rights across the private lane are uncertain and cannot be relied upon. There would also be no access down either side of the appeal site due to the width of the proposed development.
31. On this basis it has not been shown that bins could be conveniently brought to the kerbside for collection. The proposal would therefore provide unacceptable waste and recycling management provision.
32. I appreciate the need to ensure the public can use and enjoy the highway without obstruction. Bin collections usually occur once a week and there is no evidence to suggest that such collections are more frequent here. As is the case with most residential locations, occupiers are likely to either place their bins at the collection point the night before or early on the morning on collection day.

33. This would be a temporary situation, and it is likely that the bins would be returned to the bins stores on the day of collection, notwithstanding the absence of a suitable method to bring the bins to and from the collection point.
34. Having walked along the highway during my site visit, I noted space along the pavement for the temporary storage of bins on collection day. The width of the pavement would ensure that pedestrians could still pass. I therefore consider that the highway would not unduly suffer from obstruction on collection days.
35. However, the proposed development, for the reasons given above, would not provide acceptable waste servicing arrangements. It would therefore fail to accord with the relevant provisions of Policies CS22 and CS41 of the Core Strategy, Saved Policy 6.8 of the Local Plan and the Design Guide. These, amongst other things, address the need for good design for waste and recycling provision.

Car and Cycle Parking

36. The appeal site is identified in the Council's Parking Standards Supplementary Planning Document (2021) ("The Parking Standards") as falling within Zone D - Suburban/Rural locations. The Council identify these zones as having the lowest level of access to public transport, services, and facilities, where car ownership is at its highest.
37. The Parking Standards identify that extra demand for one parking space would be generated as part of the proposed development. No off-street parking is provided with the appellant relying upon on-street parking. However, there is no clear substantive evidence before me to show existing on street capacity, parking stress or that the road network could accommodate further parking pressure.
38. In the absence of such evidence, I cannot be certain that any impacts from the development on the transport network would be effectively mitigated to an acceptable degree.
39. While appropriate cycle parking could be provided to the rear, for the same reasons as indicated above with managing waste and recycling on collection day, I cannot be confident that appropriate access to the cycle stores can be reasonably achieved to increase opportunities for cycling.
40. Consequently, the appeal would fail to provide appropriate car and cycle parking provision conflicting with the relevant provisions of Policies CS16 and CS18 of the Core Strategy and the Framework. These seek, amongst other things, to ensure that developments provide the minimum necessary car parking provision while promoting cycle use.

Other Matters

41. The appeal site is within influencing distance of the Dorset Heathlands SPA (Special Protection Area) and Ramsar Site, and part of the Dorset Heaths SAC (Special Area of Conservation).
42. In accordance with the Council's Dorset Heathlands Supplementary Planning Document 2020 a financial contribution is required to mitigate the adverse effects of the development on the integrity of the sites.

43. The appellant has submitted a legal agreement to secure these financial contributions. Had I been allowing the appeal it would have been necessary for me to undertake an Appropriate Assessment and consider the likely effect of the development.
44. In doing so I would have considered whether there would be significant effects arising from the scheme, either alone or in combination with other schemes, to be certain that the integrity of the designated sites would not be adversely affected. However, as I am dismissing the appeal for other reasons, such an assessment has not been necessary.
45. The appellant argues that the Council's refusal of the application contradicted earlier pre-application advice. Be that as it may, informal advice provided before an application is lodged, is given without prejudice and cannot pre-determine the outcome of a subsequent application which must take account of all material factors.
46. Given the informal and preliminary nature of the pre-application advice, I ascribe limited weight to it in my determination of the appeal, which I have considered on its own merits.
47. I have also considered the various other concerns raised by interested parties. However, none of the other matters raised outweigh or alter my conclusion on the main issues.

Planning Balance

48. The Council is unable to demonstrate a five-year supply of deliverable housing sites. In regard to the specifics of the appeal scheme and its situation, this would take me to paragraph 11 d) ii) of the Framework and where the most important policies would be out of date. I am then required to grant planning permission 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.
49. The proposal is promoted as an efficient use of brownfield land within a broadly residential area. It would also add one dwelling to housing stock. However, the sum of these benefits would be modest given the quantum of the proposed development.
50. I have found unacceptable harm arises from the proposed development's impact upon the character and appearance of the area, the living conditions of neighbouring and future residential occupants, waste servicing and car and cycle parking. The harms would be significant and long lasting. I therefore attach substantial weight to the proposal's conflict with the development plan and the Framework.
51. With the above in mind, it is sufficiently clear 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. The appeal scheme would not, therefore, benefit from the presumption in favour of sustainable development.

Conclusion

52. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR