



Appeal Decision

Site visit made on 21 September 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2023

Appeal Ref: APP/V1260/W/22/3310209

30 & 30A Firs Glen Road, Bournemouth BH9 2LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Simon Clooney (Chewton Homes) against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2022-28048-B, dated 22 August 2022, was refused by notice dated 7 October 2022.
 - The application sought planning permission for demolition of existing bungalow and the erection of two detached dwellinghouses, formation of new vehicular access and parking spaces without complying with a condition attached to planning permission Ref 7-2021-28048, dated 17 June 2021.
 - The condition in dispute is No 14 which states that: The proposed rooflights in both side elevations of the dwellings hereby permitted serving the loft storage spaces shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and shall be fixed shut and shall be permanently maintained and retained as such unless otherwise agreed in writing by the Local Planning Authority.
 - The reason given for the condition is: To protect the amenity and privacy of adjoining properties and in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing bungalow and the erection of 2 detached dwellinghouses, formation of new vehicular access and parking spaces at 30 & 30A Firs Glen Road, Bournemouth, BH9 2LT, in accordance with the application Ref 7-2022-28048-B dated 22 August 2022, without compliance with condition number 14 previously imposed on planning permission Ref 7-2021-28048 dated 17 June 2021 and subject to the conditions set out in the attached schedule.

Background and Main Issue

2. Planning permission was granted on 17 June 2021 for, amongst other things, the demolition of the existing bungalow on site and the erection of 2 detached dwellings¹. These dwellings have since been built. The appellant is seeking to vary condition No 14 of that planning permission to allow the 2 rooflights in Plot 1 facing Plot 2 to be clear-glazed and openable and the remaining rooflights to be repositioned and to be clear-glazed and openable.
3. The Council consider that the proposed clear-glazed side rooflights openable below 1.7 metres above floor-level would result in an uncomfortable

¹ 7-2021-28048

overlooking and mutual inter-viewing opposing relationship between the new dwellings to the detriment of the original grant of planning permission. The main issue therefore is the effect that varying condition No 14 would have on the living conditions of the occupiers of Plot 1 and Plot 2, with particular regard to privacy.

Reasons

4. The proposal provides the option for the existing rooflights in Plot 2 facing Plot 1 to be either glazed with obscure glass and fixed shut, or alternatively relocated along the line of the roof slope so that the whole of the clear-glazed window opening area would be greater than 1.7 metres above loft floor level.
5. Consequently, the clear-glazed and opening rooflights proposed for Plot 1 facing Plot 2 would either provide outlook towards rooflights glazed with obscure glass and fixed shut which would not allow for mutual inter-viewing, or outlook towards clear-glazed and opening rooflights situated 1.7 metres above loft floor level in Plot 2 which would not allow direct overlooking for persons of average height from Plot 1. In the event that the side facing rooflights in Plot 2 facing Plot 1 were relocated, their height above loft floor level would severely hamper outlook from those rooflights in Plot 2 towards Plot 1 for persons of average height.
6. On this basis, and noting that the loft floor level of each dwelling is similar, even if the relevant side facing rooflights in both Plot 1 and Plot 2 were clear-glazed, the proposed height of the side facing rooflights in Plot 2 facing Plot 1 would ensure that there would in all likelihood be very limited opportunity for mutual overlooking and inter-viewing. Accordingly, the proposal would follow Basic principle 3 found in Residential extensions: A Design Guide for Householders (adopted 2008), which provides that, amongst other things, obscure glass or high level windows may be used to help prevent overlooking.
7. I therefore find that varying condition No 14 would have an acceptable effect on the living conditions of the occupiers of Plot 1 and Plot 2, with particular regard to privacy. The proposal would comply with Policy CS41 of the Bournemouth Local Plan: Core Strategy (adopted 2012) which provides that, amongst other things, development should provide a high standard of amenity to meet the day-to-day requirements of future occupants.
8. The proposal would also comply with paragraph 130 f) of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Conditions

9. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect². As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the main parties.

² Paragraph 21a-040-20190723

10. As the 2 dwellings have been built I have omitted the standard time limit condition as this is no longer necessary. A condition is however necessary requiring that the development is undertaken in accordance with the approved plans to provide certainty, and in accordance with this appeal proposal, Roof Plan and Section (variation of condition 14) (Project No. 2500) (Drawing No. 001) has been added to that condition (condition No 1 in the attached schedule).
11. For the reasons given in the main issue above, condition No 14 of the original grant of planning permission should be substituted with the proposed condition (condition No 14 in the attached schedule).

Conclusion

12. 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 allowed.

Alexander O'Doherty

INSPECTOR

Conditions Schedule

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Plans and Elevations Drawings 9417/100 Rev. E, 9417/101 Rev. E, 9417/102 Rev. E, 9417/103 Rev. D, 9417/104, Roof Plan and Section (variation of condition 14) (Project No. 2500) (Drawing No. 001).
- 2) Details/samples of the bricks, render and tiles to be used on the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any superstructure works on site. Development shall be carried out in accordance with the approved details.
- 3) All on-site working, including demolition and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of 8 a.m. and 6 p.m. Monday - Friday, 8 a.m. and 1 p.m. Saturday and not at all on Sunday, Public and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.
- 4) The tree protection measures as detailed in the arboricultural method statement Reference '30 Firs Glen Road Bournemouth' dated March 2021 and prepared by GLEC Environmental Consultant shall be implemented in full and in accordance with the approved timetable and maintained and supervised until completion of the development.
- 5) Within 3 months of the date of commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, full details of soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The details should include where appropriate: Planting plans; Schedule of plants; Implementation and maintenance timetable. The approved soft landscape scheme shall be implemented in full prior to occupation or use of the development commencing and permanently retained unless otherwise agreed in writing by the Local Planning Authority.
- 6) Within 3 months of the date of commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, the details of the materials to be used for the boundary walls/fences and surfacing of the driveway and parking areas shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to occupation or use commencing and retained and maintained thereafter.
- 7) Prior to the occupation of either dwellinghouse details of a replacement highway tree shall be submitted to and be approved in writing by the Local Planning Authority. This tree shall then be planted in accordance with the approved details within 3 months of its approval date and a replacement tree provided to the same specifications if the original tree should die within 5 years of planting.
- 8) Waste and Recycling Bins shall be placed in the approved presentation points on collection days only and at all other times they shall be removed to the approved storage points as identified on Plan 9417/100 Rev. E.

- 9) Before the development hereby approved is occupied or utilised the visibility splay areas as shown on the approved plans must be cleared/excavated to a level not exceeding 0.60 metres above the relative level of the adjacent carriageway. The splay areas must thereafter be maintained and kept free from all obstructions.
- 10) Before the access is utilised the kerb and footway at the access crossing of the highway must be lowered and reinstated to a specification which must be submitted to and approved in writing by the Local Planning Authority.
- 11) The development hereby permitted must not be occupied or utilised until a scheme showing precise details of the proposed cycle parking facilities is submitted to the Local Planning Authority. Any such scheme requires approval to be obtained in writing from the Local Planning Authority. The approved scheme must be constructed before the development is commenced and, thereafter, must be maintained, kept free from obstruction and available for the purpose specified.
- 12) The Electric Vehicle Charging Points and associated infrastructure details forming part of the planning application submission and indicated on the approved plans shall be implemented and brought into operation prior to the occupation of any residential unit hereby approved or any commercial use hereby approved commencing. Thereafter the Electric Vehicle Charging Points shall be permanently retained available for use at all times.
- 13) The proposed first-floor windows in both sides of the dwellings hereby permitted shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and non-opening below 1.7 metres above floor-level and shall be permanently maintained and retained as such unless otherwise agreed in writing by the Local Planning Authority.
- 14) The proposed rooflights in both side elevations of the dwellings hereby permitted serving the loft storage spaces, apart from the 2 windows in Plot 1 facing Plot 2, shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and shall be fixed shut and permanently maintained and retained as such unless, they individually are first relocated along the line of the roof slope so that the whole of the window opening area is greater than 1.7 metres above loft floor level.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows or rooflights shall be installed in, or dormer windows shall be constructed on, the new dwellinghouses hereby permitted without the grant of further specific planning permission from the Local Planning Authority.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking and re-enacting that Order with or without modification), no enlargements of the proposed dwellinghouse shall be constructed without the grant of further specific planning permission from the Local Planning Authority.

- 17) Safe and adequate provision shall be made for the disposal of surface water run-off from the development via a sustainable urban drainage system (SUDS) within the site meeting the relevant approved construction standards or via a duly agreed and authorised connection to a mains stormwater/sewer system. Any hard-surfacing for parking areas and footways within the site shall be constructed using porous materials such as permeable block-paving.
- 18) Any new or replacement hard surfaced area(s) shall either be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

End of Conditions Schedule