



Appeal Decision

Site visit made on 26 September 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/V1260/W/23/3315861

21 High Trees Avenue, Bournemouth BH8 9JX

- 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 Charlew Developments Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2022-21210-B, dated 21 July 2022, was refused by notice dated 29 November 2022.
 - The development proposed is demolition of the existing dwelling and the erection of 3 dwellings with associated access and parking arrangements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address provided on the application form included the address line 'Bournemouth Christchurch Poole'. I have taken the address in the banner above from the appellants appeal form and the Council's decision notice, which accurately describes the appeal site address.
3. I have also taken the description of development in the banner heading above from the application form. However as '(revised scheme)' is not an act of development, I have removed this element.
4. Following the decision of the Council, the appellant has supplied a completed unilateral undertaking (UU) which secures a contribution towards Strategic Access Management and Monitoring in line with the Dorset Heathlands Planning Framework 2020-2025. These monies would be spent on projects to mitigate the adverse impact of the development on the integrity of the Dorset Heathlands European sites. The Council has confirmed that its objections in this regard have been satisfactorily addressed.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal demonstrates adequate surface water drainage arrangements; and
 - Whether the proposal would provide satisfactory living conditions for the future occupiers of plot 3, with particular regard to outlook.

Reasons

Character and appearance

6. The appeal site is a broadly triangular shaped corner plot fronting both High Trees Avenue and Midwood Avenue and is currently occupied by a detached chalet style bungalow. Due to the topography of the area, the appeal site slopes markedly as the site tapers towards the east. The surrounding area is predominantly residential and features a mix of single storey and two storey detached dwellings. The area around the appeal site has a low-density appearance due to dwellings being set back from the highway in a mostly consistent form behind gardens and parking areas as well as predominantly low boundary treatments.
7. There is however a noticeable difference in character of properties on the southern side of High Trees Avenue which are largely chalet bungalows of consistent scale and traditional appearance, with that on the northern side which, with the exception of the bungalow occupying the appeal site, are two storey dwellings with noticeably larger spacing between built form. Furthermore, whilst there is some variety in materials and articulation of roof forms in the wider area as highlighted by the appellant, consistent traditional characteristics are retained, particularly in terms of scale, visual massing, fenestration detail and, in respect of the two storey dwellings, prominent uninterrupted hipped roof forms which contribute positively to the character and appearance of the area.
8. The proposal seeks to replace the existing bungalow with 2 semi-detached dwellings (plots 1 & 2), described in the appellants appeal statement as 3 storey, and one bungalow (plot 3). Whilst semi-detached, the design of the front elevation of plots 1 & 2 would successfully result in the overall appearance of a single dwelling, albeit one of a significant size. However, this is not the case with the rear elevation. Despite the articulation of the rear façade including step backs, plots 1 & 2 would be read as a pair of semi-detached dwellings from the rear due to the twin gable design and largely repeated fenestration detail between the gables.
9. Although I acknowledge the gable design and inset balcony of the rear projection of the neighbouring 19 High Tree Avenue, this incorporates a ridge below that of the main roof and therefore sits comfortably with the scale of chalet bungalows along the appeal site side of Midwood Avenue. In contrast, plots 1 & 2 would, due to the quantum of glazing particularly within the gable, as well as overall height above the highway and massing, be eye catching from vantage points within Midwood Avenue and out of context with the surrounding more modest built form. Furthermore, notwithstanding the gable arrangement at the neighbouring property, I do not find that the wall to window ratio within the rear elevation is reflective of the more traditional window ratio seen elsewhere within the area.
10. I acknowledge that design elements of the front elevation of plots 1 & 2, are more reflective of the design characteristics within the area including the use of staggered setbacks, projecting bay features, render and brick facing materials than that of the rear elevation. However, given plots 1 & 2 would be semi-detached dwellings, the built form is inevitably larger than that of surrounding detached dwellings.

11. Despite the careful design articulation to the front elevation and noting the similarity with depths of nearby properties, due to a combination of the elongated width, dormer windows within the front roof slope which are uncharacteristic of two storey dwellings in the area, and bulk of the overall built form accentuated by the proposed altered ground levels and falling surrounding topography, plots 1 & 2 would also be prominent from High Trees Avenue. Furthermore, the slate roofing material would be a departure from that utilised elsewhere further drawing the eye. However, a planning condition could be imposed to ensure roofing materials are more sympathetic to that utilised elsewhere in the area.
12. The design of plot 3 incorporates a half hip roof form with pitch roof dormer windows and a gable detail to the front elevation. The proposed lower land level, as well as single storey room in roof design of plot 3 results in the ridge height of this unit being below the eaves height of the adjacent plot 2. Furthermore, given the proposed boundary treatment, which is indicated as a 1.8m close board fence, and the adjoining ground levels, the roof structure and dormer / gable detailing combined with the fence itself would be the prominent visual feature when viewed from High Trees Avenue.
13. Although there are other examples of close board fencing directly adjacent the highway in the wider area, both the roof form, and pitch roof single dormer windows are uncharacteristic of bungalows in the area, which exhibit regular features such as gable ended common roof pitches and flat roofed, often narrow dormer windows. Whilst it may be the case that the layout of the proposal results in sufficient garden space and separation distances between properties, and I acknowledge the comparable site coverage of built form compared to surrounding development, the contrasting heights between plots 3 & 2, the uncharacteristic appearance, and overall juxtaposition would further highlight the visual bulk of plots 1 and 2.
14. Consequently, plots 1 & 2 would be of a noticeably uncharacteristic greater scale and prominence than surrounding development, particularly when viewed from Midwood Avenue. Furthermore, in combination with the uncharacteristic appearance of both Plot 3 and rear elevation of plots 1 & 2 the proposal would appear as being over-development of the appeal site, incongruous and harmful to the street scene and character of the area. I note the retention of mature planting as well as the introduction of additional planting, however, given the proposed scale and prominence of built form, this would be insufficient to effectively soften the appearance of the proposal, or mitigate the harm I have found.
15. Subsequently, the proposal would cause significant harm to the character and appearance of the area. Accordingly, the proposed development would be contrary to policies CS21, and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) (CS), and Policy 6.8 of the Bournemouth District Wide Local Plan (February 2002) (LP). Amongst other things, and when taken as a whole, these require development to respect the character and appearance of the surrounding area and neighbourhood. Furthermore, for the same reasons, the proposed development would also be contrary with paragraph 130 of the National Planning Policy Framework (Framework) which seek to enhance the built environment and achieve well designed places as well as guidance within the Council's Residential Development Design Guide (2008) (RDDG) relating to the same.

Drainage

16. The Council has cited concerns that the proposal has failed to demonstrate satisfactory surface water drainage arrangements. CS Policy CS4 requires that development will incorporate appropriate Sustainable Drainage Systems (SUDS) ensuring that the level of surface water leaving the site is no greater than prior to development and requires details of the proposed SUDS and suitable provision for maintenance to be submitted as part of any planning application. The use of SUDS is a requirement other than in exceptional circumstances where no technical solution is available.
17. A brief Sustainable Drainage Strategy (SDS) is provided within the submitted site plan, and further groundwork and cross section plans have also been provided. The SDS indicates the proposed use of soakaways, although erroneously refers to an extension development. Notwithstanding, the construction method of the soakaways are specified and locations within rear gardens of plots 1 and 2, and under the driveway of plot 3.
18. However, the proposal as a whole introduces a significant area of roofing and hardstanding, with corresponding potential for increased surface water run-off. Furthermore, given the level changes, and lack of detail provided within the SDS such as any analysis of the current drainage arrangements or ground conditions, or details and calculations of the likely required size of the soakaways to accommodate the potential water runoff, I am concerned that any planning permission granted might be negated by the lack of suitable facilities to provide appropriate surface water drainage within the site, which could give rise to localised flooding elsewhere. Therefore, this is a matter which should be resolved before planning permission is granted rather than leaving it to a planning condition.
19. Consequently, I am not satisfied that there is sufficient information before me to reach a conclusion that planning permission can safely be granted in relation to surface water drainage arrangements and therefore the proposal would be contrary to CS policies CS4 & CS21, and LP policy 6.8. These policies, amongst other things, seek to ensure development contains appropriate drainage systems, contributes positively to the function of the neighbourhood and provides a safe residential environment. The proposal would also conflict with the provisions of the Framework which seeks to prevent development increasing flood risk elsewhere.

Living conditions

20. Due to the altered ground levels, as well as respective massing, height, scale and spatial relationship of plots 2 and 3, the Council raise concerns that built form on plot 2 would result in an oppressive and overbearing built relationship with plot 3, thereby resulting in harm to future occupiers of plot 3.
21. Whilst there would be a significant difference in ground levels, and plots 1 & 2 would be significantly taller than plot 3, I note that plot 3 has no upper floor windows and a single door and obscure glazed window to the ground floor in the west elevation, limiting any impact of the height differences on occupants of plot 3. Furthermore, whilst the rear of plot 2 projects beyond the rear elevation of plot 3, the separation and orientation of the buildings would result in limited impact in outlook from windows in the rear elevation of plot 3, with no direct line of sight from windows in the front elevation to plots 1 & 2.

22. It has also been stated that plots 1 & 2 would result in overshadowing of plot 3 from late afternoon to sunset. Even if this is the case, the main garden area of plot 3 is to the eastern side of the proposal and combined with the limited times of overshadowing, would result in a minimal impact on living conditions.
23. Consequently, I conclude that the proposal would result in acceptable living conditions of future occupiers of plot 3. The proposal would not result in an oppressive and overbearing relationship in built form resulting in unacceptable impacts on outlook. Accordingly, the proposal would accord with CS policies CS21 and CS41 and LP policy 6.8 in so far as they relate to protection of living conditions. The proposal would also accord with the provisions of the Framework concerning to providing a high standard of living conditions and the guidance within the RDDG relating to the same.

Other Matters

24. The Council have not raised any concerns in relation to any harmful overlooking or highway safety concerns, although I have noted the concerns raised by interested parties. Given separation and window to window distances between the proposal and surrounding dwellings, as well as the provision of two parking spaces per dwelling and lack of objections from the Council's Highway Officer, I see no reason to disagree with the Council's assessment on these matters.
25. As noted within the preliminary matters, part of the Council's reason for refusal related to a failure to make an appropriate contribution towards mitigation measures required due to an additional demand on designated heathland. Notwithstanding the submission of a UU, if the appeal were to be allowed, I would need to undertake an Appropriate Assessment in accordance with the Habitats Regulations. However, as I am dismissing the appeal, I have not found it necessary to consider such matters any further.

Planning Balance & Conclusion

26. The Council state that in the Bournemouth area a 2.3 year housing land supply can be demonstrated and a 2021 Housing Delivery Test result of 67%. Therefore, the Council are unable to demonstrate a five-year supply of deliverable housing sites.
27. Although there would be compliance with some aspects of the development plan, the proposal would conflict with the development plan, when taken as a whole. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is one such material consideration, and in this case, if I were to accept that the UU provides acceptable habitat mitigation measures thereby not engaging paragraph 11 d)i, the presumption in favour of sustainable development set out within paragraph 11 d) ii of the Framework would apply.
28. The adverse impacts are derived from the identified harm to the character and appearance of the area and lack of sufficient demonstrable drainage arrangements. Paragraph 130 of the Framework is clear that new development should function well and add to the overall quality of an area. It highlights that development should be visually attractive and sympathetic to local character and surrounding built environment whilst paragraph 134 states that

- development that is not well designed should be refused, especially where it fails to reflect local design policies.
29. Even in an area of under supply the proposal relating to three dwellings would make a minimal contribution to housing supply. There would also be short term known economic benefits during the construction phase and a further long-term benefit from the future spend of occupants in the local economy.
30. The development would provide appropriate living conditions for future occupiers, would not result in any harmful overlooking and would not result in highway safety concerns. However, these are ordinary requirements for new development, and they do not represent a positive benefit that weighs in favour of the development.
31. It has also been put to me that the proposal would help deliver a sufficient supply of homes and be an effective and efficient use of under-utilised land as supported by paragraphs 61, 120 and 124 of the Framework. However, the Framework also seeks to enhance the built environment and achieve well designed places not increasing flood risk elsewhere, to which I have found conflict within the main issues above.
32. Nonetheless, and although there is accordance with some elements of the Framework, given the identified harm, overall, the proposed development would fail to fulfil the social and environmental dimensions of sustainable development as articulated within paragraph 8 of the Framework.
33. Consequently, 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 proposal would not be sustainable development for which Paragraph 11 d) ii. of the Framework indicates a presumption in favour.
34. The proposal would conflict with the development plan, read as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

S Harrington MA MRTP

INSPECTOR