



## Appeal Decision

Site visit made on 14 November 2023

**by A J Sutton BA (Hons) DipTP MRTPI**

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

**Decision date: 24<sup>th</sup> November 2023**

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### **Appeal Ref: APP/V1260/W/23/3315613**

### **104 Horsham Avenue, Bournemouth BH10 7JQ**

- 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 M Watkins against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref 7-2022-28430-A, dated 14 September 2022, was refused by notice dated 23 November 2022.
  - The development proposed is described as 'demolish garage and garden room, sever land and erect 1 No 2 bed bungalow with parking and bike store.'
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### **Decision**

1. The appeal is dismissed.

### **Applications for Costs**

2. An application for costs was made by Mr M Watkins against Bournemouth Christchurch and Poole Council. This application is the subject of a separate Decision.

### **Procedural Matters**

3. Plans that were not part of the original application have been submitted with the appeal. Attention is drawn to the Wheatcroft judgment but the Holborn<sup>1</sup> judgment, which refined principles outlined in Wheatcroft, provides clarification on this matter.
4. One of the plans largely shows vehicle tracking, providing clarification on a matter already considered in the application process. However, the other amended plan shows two parking spaces covering almost all of the space at the front of the existing dwelling of No 104. This would be a fundamental change to the single parking space originally proposed, that retained significantly more front garden. This different scheme may result in impacts that were not previously considered.
5. Also, the Council's comments on these plans, in this appeal process, appear limited to highway matters. Moreover, the evidence suggests that re-consultation, beyond highway matters, has not been carried out in respect of this different scheme. On this basis, it would be procedurally unfair to the other parties involved to consider this revised plan in this appeal. Accordingly, the considerations in this decision are limited to the original application scheme.

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<sup>1</sup> Ref: Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

## **Main Issues**

6. The main issues are:

- Whether the proposed dwelling would provide satisfactory living conditions for the future occupants, having regard to privacy;
- The effect of the proposal on the character and appearance of the area; and
- Whether the proposal would make satisfactory provision for parking.

## **Reasons**

### *Living Conditions*

7. The appeal property is in a short row of dwellings (Nos 100 – 110) that are part of a grid pattern of development in a residential estate. These properties have linear plots so that many dwellings are bounded by the rear gardens of neighbouring properties. As such, occupants of No 104 and surrounding properties experience some overlooking, particularly when they are in their rear gardens. However, rear gardens in this row of dwellings are a good length, and this provides a good degree of separation with properties to the rear. This degree of separation ensures that the rear habitable rooms of these dwellings are not closely overlooked, and therefore feel reasonably private.
8. The two-storey dwellings on Stour Mews, at the rear boundaries of Nos 100 – 110, seem relatively recent additions to the estate. The rear gardens of those dwellings are considerably smaller than the gardens at Nos 100 – 110. As such, occupants of dwellings on Stour Mews have close and elevated views from their rear first-floor windows over the rear gardens of Nos 100 – 110.
9. The footprint of the proposed dwelling would fill the middle section of the existing rear garden of No 104. The new dwelling would have a rear garden, but this would be small. Therefore, the rear elevation of the proposed dwelling would only be separated from the rear of dwellings on Stour Mews by a boundary fence and a relatively small amount of garden space.
10. The proposed rear elevation of the dwelling would have an expanse of floor to ceiling glazing. This glazing would be the principal source of light and outlook for one of the two bedrooms and the open plan lounge. Given their size, these windows would allow relatively open views of a considerable section of the internal living space of this proposed small dwelling. Even with a high fence at the rear shared boundary, the occupants of the Stour Mews properties would have elevated and close up views of much of the living space inside the new dwelling and of its small rear garden, from their rear upper floor windows.
11. Without a reasonable amount of separation between the proposed and existing dwellings, the nature of overlooking that would occur with this development would be materially different to the overlooking that residents living in this area currently experience. This proposed design, combined with its closeness to two-storey dwellings at the rear, would not provide a level of privacy, either inside or outside the new dwelling, that future occupants should reasonably expect in a home.
12. The appellant proposes improved landscaping at the rear boundary. However, such a measure would not screen views from an upper floor level. A condition

- could be imposed that requires part of the glazing to be obscured. However, even if the top of the windows were screened, a considerable expanse of the proposed rear elevation would be clear glass, and this sizeable expanse of glazing would offer a poor level of privacy to the future occupants, given the close proximity to dwellings at the rear. For these reasons, imposing conditions to deal with these matters would not address the harm identified in this case.
13. Also, such a measure would not resolve the lack of privacy that would be experienced in the small garden. Future occupants would have little respite from the sense of being so closely overlooked when inside their dwelling and in their rear garden. In this regard, the proposal would not provide acceptable living conditions for the future occupants of this proposed dwelling.
  14. The bungalows at the rear of properties Nos 91 – 95 and 103 and to the south of the appeal property on Horsham Avenue (Nos 64, 68, 76a and 90) are similar in layout to this proposal. However, those infill bungalows are bound at the rear by mobile homes, single storey/dormer style properties or by playing fields. Also, the rear elevation of the infill dwelling at No 31 faces rear gardens and the new dwelling at No 56 filled a side garden at that corner property. As such, all those infill dwellings do not have two storey properties close to their rear boundary. The circumstances in those cases are distinctly different from this proposal in this respect.
  15. The Council has recently granted planning permission for a bungalow at the rear of No 110, and this dwelling will have a two-storey house at its rear boundary. However, No 110 is adjacent to the countryside, and the side boundary of its plot is not overlooked by properties. Therefore, occupants of that dwelling will enjoy a significantly greater degree of privacy than would be so in this case. That development is not directly comparable with this proposal for this reason.
  16. 10 and 14 Stour Mews are set close to each other. I have also had regard to the dwelling at the rear of No 58, and 64 Kinson Park Road, which is close to No 96. However, I have limited information about the considerations that led to those developments. This aside, while noting the similarities in plot size and proximity of dwellings in those cases, development elsewhere should not justify poor living conditions at the appeal property. These surrounding infill developments have not altered my findings on this matter for the above reasons.
  17. Accordingly, I find that the proposed dwelling would not provide satisfactory living conditions for the future occupants, having regard to privacy. In this respect the proposal would conflict with Policies CS22 and CS41 of the Bournemouth Local Plan: Core Strategy (Core Strategy) and Policy 6.8 of the Bournemouth District Wide Local Plan (Local Plan). These Policies collectively state that development which by virtue of its design would be detrimental to, amongst other matters, the amenity of any part of the Borough will not be permitted.

#### *Character and Appearance*

18. The appeal property is at the edge of a residential estate that comprises a mix of two-storey dwellings and bungalows. With a traditional 20<sup>th</sup> Century style of dwellings, in a linear pattern, the area has a distinctly suburban character. In turn, these features provide coherency and consistency in the street scene.

19. While there is a consistent character at the front of properties, there are several sub-divided plots in this area. However, these recent infill developments are generally located to the rear of existing properties such that they have not harmfully eroded the coherency in the built form in the public realm.
20. The principle of sub-dividing the existing plot to form a new dwelling at the rear would not be out of keeping in this area where this appears a relatively common feature. Both dwellings would have small rear gardens, but properties in this area have a mix of plot sizes such that this would not be at odds with surrounding development.
21. The proposed dwelling would fill much of the width of the plot and its footprint would be similar to the existing dwelling at No 104. However, the flat roof design would minimise the bulk of the proposed dwelling and it would appear subservient to that existing dwelling in this regard. Moreover, dwellings to the rear and side of No 104 are built close to side boundaries and in this context, the proposed dwelling would not appear incongruously cramped or out of keeping.
22. The proposed dwelling would have a relatively modern design. However, the contemporary structure would be behind existing dwellings and therefore would be visually contained to the rear of properties. As such the proposal would not significantly erode existing design consistency that positively characterises the street scene.
23. In respect to visual changes to the rear, a new drive and hardstanding would cover a significant part of the existing garden. However, some garden space would be retained for both dwellings. Moreover, as already outlined, new driveways and parking at the rear of existing properties is not an uncommon feature in this area.
24. Also, while the design of the new proposed dwelling would contrast with the style of existing dwellings, its outbuilding aesthetic and simple form would be sensitive to the rear gardens that surround the new dwelling. Furthermore, being subservient in height, the proposed dwelling would not appear to harmfully dominate or disrupt this mixed rear garden setting.
25. Accordingly, I find that the proposal would not have a significant harmful effect on the character and appearance of the area. In this regard the proposal would accord with Policies CS6, CS22, and CS41 of the Core Strategy and Policy 6.8 of the Local Plan. These Policies collectively require that development outside the preferred housing areas will only be permitted where, amongst other matters, the development is in keeping with the surrounding area, and any plot severance has sufficient land that can be assembled to create a type and layout of development that preserves or enhances the area's residential character.
26. The proposal would also be consistent with guidance of the Residential Development: A Design Guide, with regards this issue.

#### *Parking*

27. The Council, during this appeal process, has indicated that it no longer has concerns regarding vehicles manoeuvring in the site, subject to conditions. I find nothing to dispute this conclusion.

28. Bournemouth Christchurch and Poole Parking Standards Supplementary Planning Document (Parking Standards SPD) sets out details of parking requirements for new development proposals, with an emphasis on good design and sustainability. Parking standards, in this suburban zone, are two onsite parking spaces for a dwelling with four habitable rooms and one space for a three habitable room dwelling. The proposal makes provision of one onsite parking space for No 104, and it is asserted that there would be a shortfall of one space for this existing dwelling.
29. The SPD advises on variations on these parking standards, clarifying that reductions in parking provision may be appropriate where fully justified. Factors to consider may include the nature and location of the development, or where there is greater public transport accessibility. Relevant to this matter, the current version of the Framework, published following the adoption of the Core Strategy, states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
30. The appeal property is in a residential road, in a short cul-de-sac. It is at the settlement's edge where public transport options may be limited. However, it is a relatively short walk to the local services and bus stop on the main road. Also, there is space on the street where vehicles may be safely parked.
31. The increase in vehicle numbers, resulting from the proposal, would be limited given the scale of the development. Moreover, existing properties in the area generally have some off-street parking provision, and I find no evidence that there is unacceptable pressure on the on-street parking spaces, such that the highway is unsafe in this area. Nor do I find that the highway would be made unsafe by the slight increase in vehicles likely to be associated with this development.
32. Furthermore, although not indicated on the plan there appears sufficient space at the appeal property for secure cycle storage. This outcome could be secured by condition.
33. In light of the above, I find the proposal would make satisfactory provision for parking. In this regard, the proposal would accord with Policies CS6 and CS16 of the Core Strategy and Policy 6.8 of the Local Plan. These Policies collectively required that parking provision for new development shall be in accordance with the Council's adopted parking standards.
34. The proposal would also be generally consistent with the guidance in the Parking Standards SPD, and the provisions of the Framework, in regard to this matter.

### **Other Matters**

35. The submitted plans do not show space for waste management storage. However, while the proposal would result in a considerable part of the existing garden being developed, both dwellings would have rear gardens that could accommodate bins. Moreover, the evidence indicates that there would be space at the front of the drive for bins to be placed on waste collection day.
36. Also, the increased number of bins at the property, resulting from an additional small dwelling, would be limited. There would be space for the bins from just two properties, to be stored temporarily at this location on collection day, without unduly conflicting with vehicle movements. As such I find the proposal

could include suitable waste management arrangements, subject to conditions, and would accord with Policy CS38 of the Core Strategy in respect of this matter.

37. The Dorset Heathlands Special Area of Conservation and Special Protection Area host protected priority habitats and species typical of lowland heathland, wetlands and dunes. The proposal would result in a new dwelling in the zone of influence of the Heathland habitats. Future occupants would likely add to the recreational pressures in the area. As such, likely significant adverse effects on the integrity of the protected habitats cannot be ruled out. Consequently, an Appropriate Assessment is necessary in this case. The appellant has submitted a legal agreement related to mitigation of the adverse impacts. However, as I have found harm in respect of other main issues it is not necessary to consider this matter further.

### **Planning Balance**

38. The Council is unable to demonstrate a five-year housing land supply. Evidence suggests that the shortfall is substantial. Therefore, the provisions set out in Paragraph 11 of the Framework are relevant in this case. This states that decisions should apply a presumption in favour of sustainable development, and where the policies most important for determining the applications are out-of-date, granting permission unless, amongst other matters, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework.
39. I have not found harm in respect of highways, parking or waste management, with conditions. The Council has not raised issues about the impact on existing residents, subject to conditions. However, development should not result in harm. Consequently, these are neutral factors in this case.
40. The new home would contribute to the Government's objective to significantly boost the supply of homes. There is local policy support for small family homes and this proposal would help to address the urgent need for housing in the area. It would be in a built-up area, close to local services and some public transport options. As a small windfall site, it could be built quickly and there would be economic benefits during the construction phase. Future occupants would also contribute to the local community and economy. Environmental benefits, with on-site biodiversity net gain and energy efficiencies, could be secured by condition. These matters weigh in favour of the proposal. However, the social, economic and environmental benefits would be limited given the scale of the development.
41. I have not found harm to character and appearance. However, there would be harm with regards to living conditions. The Framework requires a high standard of amenity for existing and future users, and Policy 6.8 of the Local Plan and Policies CS22 and CS41 of the Core Strategy are generally consistent with this provision of the Framework. The proposal would not be a good design and would not be an optimal or effective use of the site in respect of this matter.
42. The identified adverse impacts, in respect of future occupants' amenities, would significantly and demonstrably outweigh the limited benefits outlined above, when assessed against the policies in the Framework taken as a whole. This would be the case if these benefits are considered together. An urgent need for

housing should not be a justification for a poor quality home. Therefore, the presumption in favour of development does not apply in this case.

43. Attention has been drawn to policies that are not in dispute. However, I find that the considerations in this appeal would not justify approving a development which would be contrary to the development plan when read as a whole.

**Conclusion**

44. For the reasons stated above and having regard to the development plan, the Framework and other material considerations, the appeal should be dismissed.

*A J Sutton*

INSPECTOR