
Appeal Decision

Site visit made on 4 December 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2023

Appeal Ref: APP/V1260/W/23/3315108

Land rear of 29 Chine Crescent, Bournemouth BH2 5LB

- 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 P Hedges against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2022-4909-AO, dated 13 September 2022, was refused by notice dated 11 November 2022.
 - The development proposed is demolition of outbuilding and erection of detached dwelling with associated access, parking and landscape works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the appeal the appellant submitted an executed s106 unilateral undertaking dated 14 September 2023. It relates to proposed mitigation in respect of habitat and species in a European site.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the West Cliff and Poole Hill Conservation Area; and
 - its effect on the living conditions of future occupiers having regard to external living conditions.

Reasons

West Cliff and Poole Hill Conservation Area (the CA)

4. The significance of the CA includes a largely intact historic layout of generous detached Victorian villas in a residential garden suburb within an original landscape of mature trees¹. Despite alterations and some now used as flats or hotels, the villas remain notable in stature. In the main the large plots are still deep, spacious and well-vegetated. These stretch between roads at the front and rear of these buildings with few significant outbuildings, especially at the ends. Boundary planting shields many villas from the street with views created by curving roads that gradually reveal individual villas in and between this

¹ Council's West Cliff and Poole Hill Conservation Area Appraisal & Management Plan (draft 2018) - Marlborough Road character area

landscape with retention of trees lining roads, including evergreen species, essential to achieve this. This pattern of development is locally distinctive.

5. Albeit on an edge, the site is within this part of the CA and swathe of development. It is the end and one side of the double plot of the New Westcliff Hotel, which faces Chine Crescent and borders Durley Chine Road South on lower ground at the rear. The site side of the road to the north, in the CA, is mainly the ends of long, open landscaped plots of villas fronting Chine Crescent. Though much of the adjoining part of the New Westcliff Hotel plot is a car park, it is at least open and includes boundary planting. The opposite side of the road (mostly next to the CA in its setting) contains large detached, mainly inter or post war dwellings set back from the roadside in landscaped plots. Trees and understory line both sides of this curved road corridor which has a tranquil, low density secluded sense of containment.
6. A small, low flat roofed outbuilding on the site has the appearance of a modern double garage. While it is innately utilitarian and would be demolished it currently has no significant visual presence on the site so is largely innocuous. Of more importance is that a hardstanding and part of a raised bowling green mean the site is mainly open with trees and understory planting on parts of it, including along the road frontage. These features broadly match the sites to the north and it can be observed as such in the Durley Chine Road South streetscene, including in the context of the New Westcliff Hotel behind it on rising land. Despite no reference to the site in the Council's CA appraisal (which is unsurprising given its geographic coverage) I consider that in position, openness and planting the site makes a positive intrinsic contribution to the character and appearance of the CA irrespective of the outbuilding.
7. The detached dwelling would be high quality in design and external materials and maintain a subservient relationship to the hotel buildings behind (even if part of the hotel was redeveloped with a five-story block of flats²). However, it would be significantly different in appearance and size to the older buildings in the CA or in the setting of the CA near it. Despite a narrow plan form and siting partly further from the road, the house would stretch across most of the width of the site, facing the road. Though two-storey in a mainly one and a half storey form, it would have appreciable overall scale, massing and bulk, fill almost half of the site area and be in close proximity to three boundaries.
8. All the trees on the site subject to an area Tree Preservation Order³ would be removed to accommodate the proposal, including to give satisfactory outlook and natural light to main habitable rooms and garden of the house. This includes three large trees between 8-10m high next to the back edge of the pavement, two of which are evergreen. While one evergreen is in poor condition, the other two trees are in fair condition and all three have a 'remaining contribution' of between 10 or 20 plus years. A row of evergreen trees further back would also be removed. These are shown in the as existing site layout plan⁴ but not in the tree constraints plan⁵, though appear to be four Leyland Cypress Ref T004 in the arboricultural impact assessment (AIA)⁶. If so, one is dead and the others are in poor condition with less than 10 years

² Extant outline planning permission Ref 7-2021-4909-AN

³ West Cliff Road Area 4, 1982 (effective 1983)

⁴ Drawing number PL01

⁵ Drawing number RNapec/299/TCP/2

⁶ Report reference 299/AIA/1

remaining contribution. Nonetheless, they are shown retained in an approved plan for the approved block of flats⁷, not removed as suggested in the AIA.

9. In any event, while none of these trees appear to have been recently well managed they are nevertheless a positive feature in the CA, including species and location. Better condition replacement trees, including evergreen species, would have greater longevity but take years to become established in the streetscene. Even if planted between 3-4m high there is no evidence they would ever be comparable in eventual height due to overshadowing of the house or garden, nor would they be in the same position as all trees lost.
10. The proposed form and arrangement of residential development on the site would, therefore, be unduly cramped and manifestly out of keeping with the layout and sequence of residential development and spacious tree lined landscaped plots in this part of the CA to the north and opposite in its setting. This adjunct inserted behind the New Westcliff Hotel (or the approved block of flats) would appreciably diminish the way in which the site is experienced in its surrounding context, including by loss of openness and trees. The fundamental incompatibility of the proposal would be noticed as visually prominent and conspicuous in public views in either direction and side of Durley Chine Road South, so from inside the CA as well as its setting, and jar in this streetscene.
11. The design of the house lacks sufficient conviction as a 'coach house'. In any event, there is no evidence of a coach house in this part of the CA or anywhere else in the CA, so it is somewhat contrived. There is no apparent reason why the proposal is the only way to remedy the presence of the outbuilding on the site or to renew or improve planting on it. No 'gap' between buildings in this road frontage would be developed to 'complete the streetscene'. The Council's tree officer did not object for arboricultural reasons, including the 'low grade' of trees and subject to 'suitable' replacement planting. But the planning officer's assessment was wider detrimental harm to the sylvan surroundings of the CA and a planning condition requiring new trees be retained as tall as those lost would be unreasonable for the reason referred to earlier above.
12. On the south side of the site the undeveloped end of what appears was a long plot behind a hotel facing Chine Crescent has been subdivided and infilled with a pair of semi-detached houses facing Durley Chine Road South, also in the CA. Though granted planning permission by the Council in 2002, after the CA was designated, that decision was not against the same development plan as now and long before the Council's draft conservation area appraisal. Though not yet adopted, so carries less weight, the appraisal has been prepared by a competent person (suitably qualified professional) and in my view plainly guards against this form of development today. As such, while there are some similarities between these houses and the proposal, it is fundamentally not the prevailing form or layout of development in the CA along the rest of this road to the north or opposite in its setting. Piecemeal subdivision and infilling on the site as proposed would consolidate this unsympathetic and disruptive grain of development in the CA.
13. Furthermore, the undeveloped rear plots north of the site are similar in nature to the site. If planning permission was granted in this appeal it would result in a real prospect of further repetition and a collapse in the integrity and cohesion of this transition along Durley Chine Road South and entire part of the CA.

⁷ Design and Access Statement - page 11, Appeal Statement - Appendix A

14. I find that the proposal would have a negative, harmful effect on this part of the CA and adversely affect and undermine the significance of the CA overall, so fail to preserve or enhance the character or appearance of the CA. Consequently, it is contrary to saved Policies 4.4 and 6.8 of the Bournemouth Local Plan, February 2002 (the LP) and Policies CS21, CS39 and CS41 of the Bournemouth Core Strategy, October 2012 (the CS). These policies include that residential development in a conservation area should not adversely affect its significance and preserve or enhance character or appearance having regard to form, scale, massing, layout, density, site coverage, retention of original building plots, protection of existing street patterns, trees, views and quality of the streetscene and respect the site and its surroundings.

Living conditions

15. The house would be tight to the east and south boundaries of the site, leaving narrow circulation space. A bank on the north side would be planted, including a replacement tree. The only garden would essentially be in front of the house. It would be shallow in depth between the wide, sheer front elevation and the pavement, behind a boundary wall and next to new tree planting on two sides. This would give an overly uncomfortable sense of enclosure and significant overshadowing restricting natural light for most of the day.
16. Despite a wall, trees and new hedge a 'back' garden in front of the house would not only be unusual but render activity in it exposed to noise or disturbance from passing pedestrians or vehicles, cars parked beside it in front of the house and cars parked or moving next to it in the New Westcliffe Hotel car park. Without further boundary treatments (which would increase enclosure) a significant part of this garden would be seen from the pavement across the retained vehicular entrance, especially when parked cars were not present, or across the entrance to the hotel car park and by people in the car park.
17. Though otherwise useable, and even if 60 sqm, these constraints would render the garden inadequate in dimensions and layout for normal domestic use and activity associated with this 3 and potentially 4-bed (instead of an upstairs study) family sized house. Nor would it be particularly private, including for sitting out, relaxation or entertaining. The proposal would not, therefore, provide meaningful or functional garden space and not be conducive to normal expectations for residential use and occupation of the house.
18. Both semi-detached houses next to the site also have some limited circulation space. However, the narrow side garden of No.18 returns and flows seamlessly into a deeper rear garden across the full width of this plot. While the space behind No.20 appears to have been largely infilled by an extension, this plot is significantly wider. Although to the side, a large garden extends far back from the road and the part behind an intervening outbuilding is secluded. Neither of these properties gardens are therefore comparable to the proposal.
19. There is no apparent reason why an owner the proposed large family house would not wish to have suitable commensurate private garden space. There is no evidence that nearby public open space, such as parks or the coast, could be used for private domestic use or activity normally enjoyed and expected as part and parcel of living in a house. While the site is in a built-up area this is not a compelling reason to compromise on private garden space; it provides relief from urban living. None of these considerations therefore mitigate or compensate for fundamentally unsuitable living conditions to begin with.

20. I find that the proposal would not provide satisfactory garden space. It would therefore have a harmful effect on the living conditions of future occupiers having regard to external living conditions. Consequently, it is contrary to saved LP Policy 6.8 and CS Policies CS21 CS41. These policies include that infill residential development should complement the amenity of neighbouring development, provide a pleasant residential environment and respect residents' amenities in layout to provide a high standard of amenity to meet the day to day requirements of future occupants.

Other Matters

European site

21. The appeal site is within a zone of influence of the Dorset Heathlands⁸. This designated European site contains lowland heath important for nature conservation of protected habitats and species. Alone, or in combination with other development, the net increase of people who would live in the house could visit the heath for recreational purposes, including potentially with domestic pets. Either way, cause damage or disturbance likely to have a significant effect on the integrity of these features of the European site.
22. The Council has adopted an avoidance and mitigation strategy which aims to ensure no adverse effect on the integrity of the European site⁹. It includes strategic access management and monitoring of recreational use of the heath by a standard tariff per dwelling financial contribution; and provision of suitable alternative natural greenspace to alleviate use of the heath through Community Infrastructure Levy receipts generated by development. The appellant's unilateral undertaking is intended to make the requisite financial contribution.

Heritage and Planning Balance

23. The Council accepts that it cannot currently demonstrate a 5-year supply of deliverable housing sites, with a 2.3 year supply and shortfall of 4,862 homes, and that at 67% it failed the most recent Housing Delivery Test (HDT). This is not disputed by the appellant. Either way, by virtue of footnote 8, National Planning Policy Framework (the Framework) paragraph 11(d) is therefore engaged. The starting point is that planning permission should be granted.
24. In this appeal policies in the Framework that protect an area or asset of particular importance (the CA) provide a clear reason for refusing planning permission. Accordingly, by virtue of Framework footnote 7 the presumption in favour of sustainable development does not apply in this case.
25. The house would be well-designed and make efficient use of an already developed small windfall site in a settlement where housing is acceptable in principle and accessible to facilities and services. It would contribute to meeting the Council's housing requirement, could be built relatively quickly, sustain employment during construction and establish new trees on the site. These outcomes would align with objectives of the Framework to significantly boost the supply of homes, meet family living needs, support the economy and improve the quality of the urban environment. Given the small scale of the development, these would be limited social, economic and environmental public benefits so, in my view, they have moderate weight in support of the proposal.

⁸ Dorset Heathlands Special Protection Area and Ramsar Site and Dorset Heaths Special Area of Conservation

⁹ The Dorset Heathlands Planning Framework 2020-2025 supplementary planning document, April 2020

26. The proposal would be small scale in the context of the CA as a whole but nonetheless have a significant negative impact on features in this part of the CA that contribute to its significance, so the overall harm to the CA would be less than substantial to be weighed against the public benefits. It would also not provide satisfactory garden space so cause appreciable harm to the living conditions of the future occupiers of the house. It would undermine development plan objectives in both respects and in light of the housing land supply and HDT position, reduced weight applies to these policies most important for determining the appeal.
27. However, they are broadly consistent with objectives of the Framework to conserve the historic environment and achieve well-designed places. Designated heritage assets, such as conservation areas, are an irreplaceable resource and should be conserved in a manner appropriate to their significance; any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. The Framework also aims to ensure development is sympathetic to local character and history, including the surrounding built environment and landscape setting, and maintains a strong sense of place to create distinctive places to live and visit. It should also function well to ensure a high standard of amenity for future users.
28. Consequently, notwithstanding the housing land supply and HDT position, and significant scale of housing shortfall, I consider that the support in the Framework for delivering housing is not at the expense of ensuring that residential development is appropriate and suitable in relation to the historic environment. I therefore give considerable importance and great weight to conservation of the CA. Nor should future occupiers of residential development endure unsatisfactory living conditions, a matter in this appeal that I consider has substantial weight against the proposal.
29. Accordingly, the public benefits of the proposal do not outweigh the individual and cumulative harm. In this appeal, policies in the Framework also protect another area or asset of particular importance (the European site). As the competent authority it would ordinarily be necessary for me to undertake Appropriate Assessment¹⁰. But as I intend to dismiss the appeal, even if the development did not adversely affect the integrity of the European site, so not provide a clear reason for refusing the development, there is no need for me to consider it any further. This is because it would not affect my decision or alter the outcome of the appeal.

Conclusion

30. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan¹¹. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

¹⁰ The Conservation of Habitats and Species Regulations 2017 (as amended)

¹¹ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12