



Appeal Decision

Site visit made on 16 January 2024

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/V1260/W/23/3326268

31 New Road, Bournemouth BH10 7DW

- 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 David Marsh against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2022-19053-F, dated 4 December 2022, was refused by notice dated 21 April 2023.
 - The development proposed is described as 'Demolition of an existing detached bungalow - replacing with a detached dwelling containing 7 apartments/flats, with bin and cycle storage and the formation of a new vehicular access with parking spaces.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on highway safety in the area;
- Whether the proposal would satisfy national and local policy for flood risk; and
- Whether the proposed dwellings would provide suitable living conditions for future occupants, having regard to privacy, noise and outlook.

Reasons

Character and Appearance

3. The appeal property comprises a bungalow in a modestly sized plot. The plans show that the plot is somewhat wider than neighbouring properties, but I saw that this variation in size is not particularly noticeable in this road. The bungalow has been extended. However, it appears a hipped roof dwelling from the front, and in this respect, it retains much of its original traditional character when viewed in the public realm.
4. The bungalow is in a row of dwellings that have an individual quality. However, like the bungalow, these other dwellings have a distinct mid-20th Century traditional architectural style and as such the built form has a positive coherency in this area. There are some two storey dwellings along the road, but these are generally single traditional family sized homes. This scale of

dwelling, along with the distinct traditional suburban style strongly characterises the street scene near the appeal property.

5. This proposal would replace the bungalow with a two and a half storey apartment block, with living accommodation in the roof space. Some of the design detail would reflect surrounding built form. However, the front elevation of the proposed block would have four banks of windows and a communal entrance. As such, while the development retains a plot layout common in this area, the width of the block would appear to be double that of neighbouring dwellings. The new building would also be significantly higher than the existing two storey dwellings in this area, such that it would appear a dominating feature, particularly when set against the neighbouring bungalow.
6. Also, the front elevation would have a side entrance and glazed stairwell, and this, combined with its incongruous size, would not be sympathetic to the traditional suburban style of neighbouring dwellings. In this regard, the development would not integrate well, visually, into its setting. Moreover, with these features the new building would significantly disrupt the positive coherency of surrounding development that characterises this area.
7. It is argued that this would be a more efficient use of land. However, by virtue of its height, bulk and style, the proposed block would appear an oddity set along side the existing dwellings in this immediate setting. Accordingly, the development would fail to maintain the prevailing character. As such, this would not be an effective use of land. Nor would the development constitute good design for this reason.
8. New Road is a busy road and natural features near the appeal property are largely limited to the vegetation and trees in gardens. There is a mature Copper Beech tree at the front side boundary of the appeal property, and this feature provides much needed verdant contrast with the built form in this part of the road. As such, the tree is a positive feature that is visible in the public realm.
9. The Arboriculture Statement highlights that the existing dwelling already overlaps the root protection area (RPA) of this tree and that the area at the front of the property is used for parking. Be this as it may, there is currently a single dwelling at this property, and I saw that the area immediately surrounding this tree is relatively undeveloped.
10. This proposal would significantly increase the number of residential units at the property. Most of the area at the front of the property would need to be used for parking and a vehicle turning area. Moreover, there would be parking spaces within the RPA, as well as a bin storage facility for seven residential units. Therefore, as a consequence of this development, this relatively undeveloped area would be used frequently, on a day-to-day basis. Also, not only would activity around the tree significantly increase, but the nature of that activity would also be considerably different to that which currently occurs in this part of the property.
11. A protective barrier would be constructed in the RPA, and it is suggested this area could be used for soakaway. However, even if permeable paving was used, the persistent and frequent use of the parking spaces and the bin area by occupants of seven residential units would be considerably more impactful than the activity that currently occurs at this single dwelling. The creation of

- hardstanding and the activities of future occupants in this area would provide significantly less favourable ground conditions for this tree than currently exists.
12. Also, this is a sizeable tree, and its canopy would overhang at least one of the parking spaces and most of the bin storage area. Even if I accept that the tree could be protected during construction, leaf litter and the fear of falling branches, in an area that would be frequently used by future occupants, would likely lead to pressure to significantly prune or remove the tree.
 13. The tree is protected by order, but substantial works would be difficult to resist if there were concerns about the well-being of future occupants. Substantial pruning or removal of the tree would considerably erode positive features in the property, and in turn, this would significantly harm the character of the area. Furthermore, for the reasons outlined above, I am not satisfied that a condition would protect the tree for the lifetime of the development.
 14. 53 New Road has been redeveloped as a seven-apartment building. However, that property is a significant distance along the road such that changes in that part of the street do not influence the character around the appeal property. In any event, that property is flanked by two storey dwellings and the front elevation of that building appears significantly more compact than is proposed in this case. Therefore, that development is not directly comparable for these reasons.
 15. Attention has also been drawn to development at Nos 34, 36 37, 39 and 67. However, these developments are behind dwellings that front New Road, and therefore have limited primary street frontage. Those developments are distinctly different in this regard from this proposal. This matter has not altered my findings on this issue.
 16. In light of the above, I find that the proposal would significantly harm the character and appearance of the area. In this regard the proposal would be contrary to Policies CS6, CS21 and CS41 of the Bournemouth Local Plan: Core Strategy(Core Strategy) and Policies 6.10 and 4.25 of the Bournemouth District Wide Local Plan(Local Plan). These Policies collectively seek good design and state that flats will be permitted provided development, amongst other matters, respects the character of the area and takes account of important trees.
 17. The proposal would also be inconsistent with the National Planning Policy Framework-December 2023 (the Framework) which seeks well designed places.

Highway Safety

18. Paragraph 115 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
19. While the speed limit on this part of New Road is low, it is a main distributor road in a residential area. As such vehicles reversing out of properties on to the carriageway present a hazard to other road users, including pedestrians.
20. This proposal would significantly increase the number of residential units at the appeal property. In turn this intensification of development would likely result

- in a considerable increase in the number of vehicles at the property, over that which currently occurs with the existing single dwelling.
21. The footprint of the proposed building would be further back in the plot than the existing dwelling. However, this would only be by a small amount and the area remaining at the front of the new block would be relatively modest.
 22. The submitted plans have differing parking layouts, but this aside, the appellant asserts that seven parking spaces could be provided at the front of the property. As already outlined, this area would be modest in size, such that I am not convinced that the area could accommodate seven parked vehicles with space to open the vehicle doors. Indeed, even with six parked vehicles, the parking arrangements would likely be extremely cramped given the limited size of the area.
 23. Also, even if I accept that the required amount of parking could be provided, very little information has been presented in this appeal that gives certainty that the proposed turning area would be sufficient to allow vehicles to manoeuvre safely within the property. Nor has certainty been provided that vehicles could access and exit the site in forward gear, to ensure that they do not come into conflict with other road users in the area.
 24. A considerable increase in vehicle numbers at the property, combined with insufficient parking and turning space, would significantly increase the likelihood that vehicles using the site would conflict with other road users in this relatively busy road. In turn, the highway near the appeal property would become significantly less safe to use than is currently the case. Given the factors above, certainty on this matter is necessary to ensure that the proposed development would not result in an unacceptable impact on highway safety in this area. A condition could not address this matter for this reason.
 25. Therefore, I find it has not been demonstrated that the proposal would not have a harmful impact on highway safety in the area. In this regard the proposal would fail to accord with Policies CS16 and CS41 of the Core Strategy. These Policies collectively require, amongst other matters, parking provision for new development shall be in accordance with the Council's adopted parking standards.
 26. The proposal would not accord with guidance in the Council's Parking Standards Supplementary Planning Document, which amongst other matters, aims to ensure a consistent and transparent approach when assessing parking need, design and layout and seeks to improve highway safety. The proposal would also not accord with the Framework with regards this matter.

Flood Risk

27. The Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The aim of the sequential test is to ensure that this risk-based approach is followed and to steer new development to the areas with the lowest risk of flooding from any source. This means avoiding, so far as possible, development in current or future medium and high flood risk areas. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

28. There is already a dwelling at the property, but this proposal would significantly intensify this more vulnerable use at this site. Moreover, the appeal property is in Flood Zone 2, and the Framework requires a site-specific assessment for all development in Flood Zones 2 and 3. A flood risk assessment has not been submitted in support of this proposal.
29. It has been stated that there is limited land available for housing development in the area. However, evidence in the form of a sequential assessment has not been presented in this appeal. As such, it has not been demonstrated that there are no other reasonably available sites for the proposed development in areas with lower risk of flooding than the appeal property. Therefore, the sequential test has not been passed.
30. Sustainable drainage systems are proposed, and it is asserted that flood mitigation measures could be incorporated into the development. Be this as it may, this proposal should be supported by a flood risk assessment and a sequential test must be passed, even where it is shown that the development can be made safe throughout its lifetime without increasing flood risk elsewhere. A condition could not make the development acceptable in this regard for this reason.
31. In light of the above, I find that the proposal would not satisfy the requirements of national and local flood risk policy. The proposal would not accord with Policy 3.28 of the Local Plan in respect of this matter. The proposal would also fail to satisfy the provisions set out in the Framework regarding flood risk.

Living Conditions

32. The living rooms of proposed units 2, 3 and 4 would have wall to ceiling windows that would provide an outlook over the rear communal outside space. The submitted plans show a path adjacent to these windows and there is concern that this would provide a poor level of privacy for future occupants when other occupants of the block use this communal space and access the cycle store.
33. These windows would be the sole source of light and outlook for the open plan living rooms of these units. However, the windows are at the rear of the property such that views into these habitable rooms would be largely limited to residents of the block. Moreover, the block would have a relatively small number of units, and this would limit the number of individuals accessing the space at the rear of the property.
34. Also, the plans show a path at the side boundary to the cycle store. Therefore, the cycle store could be accessed without the need to walk near to the ground floor windows of units 2, 3 and 4. Indeed, the use of the path near these units could be restricted to minimise overlooking and to ensure the future occupants' privacy would be protected. A condition could be imposed for certainty of this outcome.
35. For this reason, I am satisfied that although future occupants of these units would experience some overlooking, arrangements could be put in place to ensure that this would be limited and would not be considerably different from the level of overlooking that individuals would reasonably expect in this type of residential development.

36. The Council's Residential Development Design Guide (Design Guide) highlights that poorly laid out internal space can result in negative disturbance impacts. Developers are encouraged to think about internal arrangements that minimise potential disturbance between units.
37. The kitchens of the loft units would be above the bedrooms of the units on the first floor. The Council has raised concerns in this appeal that these first-floor bedrooms would be subject to noise disturbance from the occupants of the units above. The Design Guide advises that a living room of one unit should be positioned adjacent to the living room of the adjoining unit rather than a bedroom. However, with limited information presented on this matter, I find nothing that would prevent suitable measures being incorporated into the building to ensure this development would be made acceptable in respect of this issue.
38. Concern has also been raised about the outlook of habitable rooms in the loft units. The openings in bedrooms of these units would be limited to skylights. However, these would be sizeable such that future occupants would enjoy a reasonable amount of light and would have glimpses of the sky.
39. Skylights would also serve the living rooms of these units. However, these are open-plan rooms that include a kitchen and dining space. Moreover, these rooms would benefit from windows on the front and rear elevations. These would be reasonable size windows such that they would provide a reasonable outlook for the future occupants of these units when they use these rooms.
40. In light of the above, I find that the proposed dwellings would provide suitable living conditions for future occupants, having regard to privacy, noise and outlook. In this respect, the proposal would accord with Policy CS41 of the Core Strategy and Policy 6.10 of the Local Plan. These Policies require that development, amongst other matters, provide a high standard of amenity to meet the day-to-day requirements of future occupants.
41. The proposal, in respect of this matter, would generally accord with the Framework which requires a high standard of amenity for existing and future users.

Other Matters

42. Concerns have been raised about waste collection and the type of cycle store, but the plans show that there is space for these facilities. As such, I am satisfied that these matters could be dealt with by condition to ensure compliance with relevant local policies.
43. I have not found harm in respect of living conditions. However, development should not be harmful in this respect and therefore this is a neutral factor.
44. The Council is unable to demonstrate a five-year housing land supply, and the evidence indicates a substantial shortfall in this respect. Also, the most recently published evidence shows the delivery of housing was below 75% of the housing requirement over a previous three-year period. Therefore, the provisions in Paragraph 11 of the Framework apply in this case.
45. The Council states the unit mix proposed would not reflect the housing type demand identified in the Strategic Housing Market Assessment or that is sought in local policy for this area. Be this as it may, there is an urgent need for new

housing in this district. This proposal would provide six additional units over that which already exists at the property. This would make a small contribution to the supply and mix of homes in the area, and this weighs moderately in favour of this development.

46. This is a windfall site which could be built quickly. It is in a built-up area with local services and community facilities. The property is also in walking distance of bus stops. There would be economic benefits during construction and future occupants would support local services. The units could also meet adaptability and accessibility guidance and be energy efficient.
47. Installation of electric vehicle charging points is usually required by Building Regulations. If these regulations do not apply in this case, a condition could be imposed, and this would ensure accordance with Core Strategy Policy CS17. The garden space would be reduced and there would be a greater expanse of hardstanding than currently, but there is space in the property for biodiversity enhancement and this also could be secured by condition.
48. The environmental, social and economic benefits identified would be moderate given the scale of the development. The adverse impacts, in respect of character, highway safety and flood risk would significantly outweigh these moderate benefits, when assessed against the policies of the Framework taken as a whole, even when these benefits are considered together. The presumption in favour of sustainable development does not apply in this case.
49. The appeal property is in the zone of influence (ZoI) for the Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation. These protected habitats support a range of rare birds and evidence has found that they are in unfavourable condition as a result of human activities, including from recreational pressure and increased nutrients in riverine environments. Natural England states that any net increase in residential units in the ZoI would result in likely significant adverse impacts on these habitats, either alone or in combination with other projects.
50. This proposal would result in a net gain in residential units and therefore likely significant adverse impacts cannot be ruled out. Information showing that the appellant has been chasing the finalisation of a legal agreement related to this matter has been submitted. However, as I am dismissing on other grounds, it is not necessary to consider this matter further in this appeal.

Conclusion

51. Having regard to the development plan and other material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR