



Appeal Decision

Site visit made on 27 February 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8TH March 2024

Appeal Ref: APP/D1590/D/23/3333533

316 Bournemouth Park Road, Southend-on-Sea, SS2 5LY

- 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 Waseem Hanif against the decision of Southend on Sea Borough Council.
 - The application Ref 23/01454/FULH dated 11 August 2023, was refused by notice dated 13 November 2023.
 - The development proposed is layout parking to front and form new vehicle crossover onto Bournemouth Park Road.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. Since the determination of this application, and submission of this appeal, the National Planning Policy Framework 2023 (the Framework) was revised in response to the Levelling-Up and Regeneration Bill: reforms to national planning policy consultation on 19 December 2023. The refusal reason generically references the Framework however, it is not considered that this revision impacts upon the determination of this appeal given the main changes to the Framework and the main issues before me.

Main Issues

4. The main issues are the impact of the proposal upon the character and appearance of the area and existing street trees.

Reasons

5. The appeal site is on the east side of Bournemouth Park Road and is a semi-detached, two storey, dwelling within a predominantly residential area. The appeal site is understood to benefit from a parking space to the rear of the property, which is accessed off Wentworth Road. The proposal seeks permission to layout parking to the front of the property and form a vehicle crossover onto Bournemouth Park Road. The crossover would measure 3.65 metres in width with the hardstanding proposed to be tarmacked. It is noted that the Highway Authority, as Consultees, did not raise any objection to the proposal and indeed the Council's refusal reason is not based upon highway safety. The refusal reason is therefore solely based upon character and appearance of the area and existing street trees.

6. At the time of my site visit I noted that there are a number of examples of vehicular accesses, of varying widths, along Bournemouth Park Road in general but that these were mainly found on the opposite side (western side) of Bournemouth Park Road in the immediate area. The appeal site stands in a row of dwellings and, in front of these dwellings which stand between Wentworth Road and Royston Avenue, it is currently characterised by a wide, uninterrupted, grass verge located on the public highway. The properties either side of appeal site, and the appeal site itself, do not benefit from vehicular parking to the front of the properties and there is also presence of strong front boundary features such as walls which contribute to the overall setting of the dwellings. This would be removed as part of the proposal.
7. The appellant outlines reasoning for other proposals of this nature having been refused, however, no details as to the other refusals are included within the evidence before me. The appellant has, however, included the decision letter from appeal reference APP/D1590/D/22/3303651 which was allowed for the construction of a vehicular cross over at 229 Bournemouth Park Road. No plans, or further information, have been submitted other than the decision letter, however I note the description of the appeal site, in that case, as highlighted within the Appellant's Statement of Case. In that case, the Inspector highlighted many examples of frontage parking to both sides of the road, including where continuous kerbside parking bays were interrupted by drop kerbs and the grass verges were punctuated with hard surfaces.
8. Each case should be considered on its own merits and, in the case that is before me, there are no examples of frontage parking within the row which the appeal site stands, the grass verge is intact and has not been punctuated with hard surfaces and there is no continuous kerbside parking along this particular stretch of Bournemouth Park Road due to the presence of double yellow lines. The main issue with the appeal at 229 Bournemouth Park Road was the effect of the proposal upon highway safety and no issues were raised, by the Council, in that case relating to character and appearance and trees as are the main issues before me. As a result of this I apply limited weight to the stated appeal as, from the information before me, there are apparent differences between site characteristics which dictate impact against the main issues raised.
9. Works near a highway tree require an assessment to ascertain whether the work is feasible without having a detrimental effect on the health or life of the street tree and such assessments should be made in line with British Standard BS5837:2012. This would include a calculation for root protection areas to assess if works can be carried out, safely, or whether further investigation is required by means of local trial holes. Whilst I note the appellant's comments, as to the rooting systems, this would, and should, be confirmed through submission of the relevant assessment prepared by a qualified individual, as whether or not the work is feasible without having a detrimental effect on the health or life of the street tree is key to the proposals.
10. This assessment is intrinsically linked to the acceptability of the proposals and I find that it is fair to request such a submission prior to determination as it goes to the heart of one of the main issues. If such a report demonstrated that the proposal was feasible it is therefore reasonable to, potentially, condition further informational trial pits to check for actual root locations or depths prior to undertaking the works. At the time of determination, however, I do not have such information. The submitted plans indicate that the proposed cross over

would notably encroach into the tree root protection area (green circle) of the tree to the south as well as under the canopy. At the time of my site visit I found, the trees, within their setting of the grass verge, be an important and attractive feature within the street scene which hold amenity value. On this basis, it is even more important that the impact of the crossover on the trees is appropriately assessed through the submission of an Arboricultural impact assessment to avoid damage as a result of any proposals.

11. Paragraph 136, of The Framework, confirms that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning decisions should ensure that existing trees are retained wherever possible. Whether or not the proposal is within a metre of the trunk of either tree, this distance does not account for the root protection zone which, for the reasons already outlined, I consider to be reasonable to require at the point of determination to ensure that the project would be feasible without detrimental impact to the street trees in question as this is linked to the deliverability, and overall suitability and design, of the proposal.
12. The appellant calculates that the proposal would result in removal of around 4% of this section of grass verge, however, regardless of the wider locality which is acknowledged to be varied with examples of where such grass verges have been punctuated, the remaining grass verge, to the front of the appeal site, is a notably undisturbed feature in an otherwise varied street scene. A crossover, through the centre of this verge I find would result in a far greater impact than crossovers in areas which have already been, to some extent, punctuated and subjected to varying street furniture.
13. A grass verge, to the front of the appeal site, is likely to be regularly mown or walked over and I have no evidence to support that it provides strong potential habitat for wildlife given the general management of such features. I do, however, find that it has an important role in softening the appearance of the street scene and that the grass verge is a characteristic and attractive feature within a notably unbroken block whereby there are no vehicle crossovers. The crossover, through the grass verge in this location, I find would appear as an alien feature within an otherwise intact grass verge which would be harmful to both the character and appearance of the street scene.
14. I note the appellant's comments regarding advantages from the proposal including improved access to the front of the property, electric vehicle charging where it is visible and parking provision which is present on many other properties in the road. Despite this, these are limited, private, advantages which I find do not outweigh the harm which I have found to both the character and appearance of the area also the potential impact, in the absence of supporting assessments, to street trees which are of amenity value.
15. The proposal would be contrary to Southend on Sea Core Strategy 2007 (CS) Policy KP2 which require proposals to respect, conserve and enhance the natural environment and CS Policy DP4 which seeks to create a high quality, sustainable urban environment maintaining and enhancing the character of residential areas. The proposal would also be contrary to Development Management Document 2015 (DMD) Policy DM1 which requires that all development should add to the overall quality of the area and respect the character of the site and its local context and surroundings in terms of

townscape setting and DMD Policy DM3 which seeks to support development that is well designed and that seeks to optimise the use of land in a sustainable manner which responds positively to local context and does not lead to over intensification.

16. The proposal would also be contrary to the guidance in Supplementary Planning Document 1 Design and Townscape Guide 2009 which outlines that proposals of this nature can be detrimental to the local character as well as acknowledging that in parts of the Borough, front gardens and landscaping are an important feature and can make a significant contribution to the character of the street scene. The proposal would also be contrary to, Paragraph 136 of the Framework which, as previously outlined, states that decisions should ensure that existing trees are retained wherever possible.
17. Overall, the proposed development would result in the loss of planted verge to the front of the appeal site which, as a result of going through a currently unbroken grass verge, I find would be detrimental to the intrinsic qualities of the frontage of the row within which the appeal site stands as well as the appearance of the wider street scene. The proposal also fails to sufficiently demonstrate how the proposal would interact with the root protection area of existing street trees and how this could potentially be appropriately accommodated to avoid loss or damage to the trees which are important to the character and appearance of the street scene and wider locality.

Other Matters

18. I note third party objections to the proposal, however, I have dealt with the matters raised in relation to trees, greensward, and the street scene within the main issues above. I note concern regarding highway safety and general safety issues; however, the Council have found no refusal reason based upon such matters. Based upon the evidence before me, my site visit and lack of objection from the Highway Authority, as consultees, I have no reason to conclude differently on this matter.
19. The Framework is a material consideration within the determination of this proposal, however, the starting point for determination is the Local Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. Whilst the presumption in favour of sustainable development, at section 11, is acknowledged (as are the three overarching objectives of sustainable development) the Framework does not change the status of the Local Plan and I have no evidence before me to support that the Local Plan is out of date in that regard. Furthermore the three arms of sustainable development should not be considered in isolation from each other.

Conclusion

20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR