



Appeal Decision

Site visit made on 13 February 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2024

Appeal Ref: APP/V1260/W/23/3330409

Land opposite 17 Viking Way, Christchurch BH23 4AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Newman against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 8/22/1070/FUL.
 - The development proposed is erection of a car port and stores.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council have confirmed that the Council's 4th reason for refusal, relating to flooding, has been overcome. I have no evidence before me to reach a contrary view to the Council in this regard and this is reflected in the main issues, which are set out below.

Main Issues

3. The main issues are the effect of the proposed development on:
 - highway and pedestrian safety;
 - the character and appearance of the area; and
 - a protected Beech tree.

Reasons

Highway and pedestrian safety

4. Viking Way is a narrow residential cul-de-sac. The southern section of Viking Way benefits from a continuous run of footway. However, at the time of my site visit, areas of the southern section of the footway were partially blocked by the presence of a car parked partly on the footway itself and by the rear portions of other larger parked cars partially overhanging the footway. Although a 'snapshot' in time, there is nothing before me to suggest my observations were untypical.
5. A narrow footway exists on the northern side of Viking Way, apart from a short section immediately to the east of the site where the footway is absent (which comprises an area of unmade ground and a driveway adjacent to that area).
6. Due to the partial obstructions on the southern section of the footway on Viking Way (referred to above), the footway in the vicinity of the appeal site on the

northern side of Viking Way is of value as it offers an alternative route towards the end of the cul-de-sac, even taking account of the fact that a short section of the footway is absent and that a lamppost and a telegraph pole are present on the footway to the west of the site.

7. The proposed car port and stores would overhang the footway. The Council have calculated that vehicles using the proposed development would also likely overhang the footway, and this has not been disputed by the appellants. Hence, the proposed development would render a fair proportion of the footway as unusable. In doing so, it would thereby remove a valuable passing place, which would otherwise likely be of particular assistance to individuals with mobility difficulties or with pushchairs who might wish to avoid any parts of the southern section of the footway on Viking Way which are partially blocked by parked cars, or alternatively at times when vehicles are entering / exiting their parking bays on the southern side of Viking Way.
8. The appellants maintain that the footway on the northern side of Viking Way is not often used by pedestrians, and I note that this point is echoed by some local residents. However, no pedestrian flow data has been supplied to support these assertions. As the site is located in a predominantly medium-density residential area, near to driveways and entrances to dwellings, and taking account of the potential adverse impacts identified above which would particularly affect older people and those with physical disabilities, a precautionary approach is justified in this instance.
9. This means that in the absence of substantive evidence to indicate that the footway is rarely used, the potential for unacceptable impacts on pedestrian safety must be considered to be a real possibility. As such, the proposed development would conflict with paragraph 5.9.9 of the Parking Standards (Supplementary Planning Document) (adopted 2021) which provides that, amongst other things, the safety and convenient movement of pedestrians should be a priority in new developments.
10. Following a previous grant of planning permission¹, it appears that the site has been used for car parking for a number of years, and according to the appellants, enforcement action has not commenced. However, it has not been shown that this car parking arrangement has resulted in adverse impacts similar to that which would be caused by the proposed development. Therefore, this is not a matter which changes my findings on this main issue.
11. I therefore find that the proposed development would have an unacceptable and harmful effect on pedestrian safety. It would conflict with the first bullet point of the last paragraph of Policy KS11 of the Christchurch and East Dorset Local Plan: Part 1 - Core Strategy (adopted 2014) (Core Strategy) which provides that, amongst other things, development must be designed to provide safe, permeable layouts which provide access for all modes of transport, prioritising direct, attractive routes for walking, cycling and public transport.

Character and appearance

12. The site is shown on the Existing Plans and Elevations drawing as being an open space, with a tree positioned to the rear of the site, and is described by the appellants as being in existing ancillary use as car parking for 17 Viking

¹ Local Planning Authority reference 8/10/0518

Way (No 17). The site has the appearance of being part-and-parcel of the area adjacent to it to the west, which consists of vehicle parking, which includes a parking area in front of a set of garages.

13. The proposed car port and stores would have a large footprint. It would be particularly wide in comparison to the widths of the fairly narrow residential properties opposite the site on Viking Way. Due to its overall width and massing, and its siting close to the carriageway, it would be a far more prominent structure in the street scene than the blocks of garages and the car port which exist on the same side of Viking Way.
14. As such, although it would be a single-storey structure, it would nevertheless substantially erode the openness of the site which presently contributes to reducing the mass of built form in this residential area. Due to its substantial size it would appear incongruous when sited in its prominent location near the carriageway of Viking Way. Furthermore, the timber cladding incorporated across much of the structure would not blend well in visual terms with the predominantly brick and render facades present on nearby buildings and walls. Any additional landscaping on site would not be of a sufficient extent to adequately mitigate these adverse impacts.
15. Mention has been made of the permitted design for the remodelled dwelling at No 17, with the proposed development reflecting the chosen material palette, but as no plans have been provided it has not been possible to make a meaningful comparison of the proposed development in relation to No 17 as remodelled. The site is currently unkempt and the proposed development would resolve this issue, but there is no evidence before me to suggest that a less harmful scheme could not achieve the same aims. Accordingly, these are not matters which alter my findings above.
16. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with the first paragraph of Policy HE2 of the Core Strategy which provides that, amongst other things, within Christchurch and East Dorset the design of development must be of a high quality, reflecting and enhancing areas of recognised local distinctiveness.
17. Policy H12 of the Borough of Christchurch Local Plan (adopted 2001), referred to by the Council in their decision notice, relates to proposals for residential development or extensions to existing residential premises and therefore is not directly relevant to this main issue. Nevertheless, the above-mentioned policy is more than sufficient for me to come to a view on this main issue.

Protected Beech tree

18. The proposed development would be sited within the Root Protection Area of a mature Beech tree which is protected by a Tree Preservation Order. This tree is visible along much of the length of Viking Way and serves to soften the visual impact of cars parked in nearby parking areas and adds a welcome element of greenery to the street scene.
19. The submitted Arboricultural Impact Assessment & Method Statement² refers to a structural engineer designing the foundation and the Cellular Confinement

² Arboricultural Impact Assessment & Method Statement (Gwydion's Tree Consultancy) (2023)

System (CCS) relating to the proposed development, and an illustrative design of a CCS is provided within that statement.

20. The proposed development would be constructed via a 'no dig solution', and I note that the proposed car port and store would be a lightweight structure which would require minimal foundations to support and anchor it to the ground. Only a small number of light screw piles / ground screws would be required to support the proposed structure.
21. On this basis, whilst the submitted Arboricultural Impact Assessment & Method Statement and the Tree Protection Plan(s) would need to be updated to contain details of the exact methods to be followed in relation to constructing the foundations and the CCS relating to the proposed development, if the proposed development were acceptable in all other respects these matters could potentially be secured via a planning condition.
22. I therefore find that, on a balance of probabilities, it is likely that the proposed development could be constructed and located on site without causing harm to the protected Beech tree over the long-term. The proposed development would comply with Policies HE2 and HE3 of the Core Strategy which collectively provide that, amongst other things, development will be permitted if it is compatible with or improves its surroundings in relationship to mature trees.

Other Matters

23. The finding on the third main issue above, with respect to the protected Beech tree, is a neutral matter, which does not weigh in favour of the proposed development.
24. The proposed development would cover the existing car parking spaces, thereby reducing the effects of tree debris on cars and potentially reducing pressure for the protected Beech tree to be removed. Nevertheless, planning permission would be required in the event that the protected Beech tree were proposed to be felled. Any such application would be considered on its own merits in light of the prevailing circumstances at that time. Accordingly, this is not a matter which weighs in favour of the proposed development.
25. Reference has been made to an application for a stopping up order, to highways interest over part of the land on site, and to the provisions of the Highways Act 1980 (as amended). These are matters dealt with under other legislation not directly related to this appeal, and as such have not influenced the outcome of this appeal.

Planning Balance

26. Reference has been made to an ancillary bike shed previously being on site. A photograph of that shed has been provided, as have details of the planning permission granted (including relevant plans). I have no reason to doubt that there is a real prospect of a bike shed being placed on site, in the event that this appeal is dismissed. However, it has not been demonstrated that such a bike shed, which was previously modestly-sized, would appear as an incongruous feature in the street scene to the degree that the proposed development would. In all likelihood it would be less harmful in planning terms than the proposed development. This fall-back position has therefore been given little weight in support of the proposed development.

27. The proposed development would provide a roof cover for vehicles, thereby protecting them from the elements. However, as this would mainly be a private benefit, it has been given little weight in support of the proposed development.
28. The proposed development would result in adverse impacts with respect to the first 2 main issues. As paragraph 131 of the National Planning Policy Framework provides that, amongst other things, the creation of high quality places is fundamental to what the planning and development process should achieve, I ascribe significant weight to these adverse impacts.
29. Balancing the significant weight of these adverse impacts against the resulting moderate weight which arises from the combined benefits of the proposed development, and taking full account of the representations received in support of the proposed development, it is clear that the matters advanced in support of the proposed development do not, either individually or cumulatively, outweigh the adverse impacts identified.

Conclusion

30. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR