



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: 2nd April 2024

Appeal Ref: APP/V1260/W/23/3323745

22 Fairfield, Christchurch BH23 1QX

- 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 M Hall and Mr J Hall against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 8/22/0614/FUL.
 - The development proposed is a single storey, one bedroom dwelling annexe in garden opposite dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken the comments received into account. I have had regard to the December 2023 version of the Framework in my decision.
3. The Council has confirmed that the submitted planning obligation (deed dated 21 November 2023) overcomes the Council's 3rd reason for refusal, relating to the Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation. This is reflected in the main issues, which are set out below.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would have an adverse effect on the ecological integrity of the River Avon Special Area of Conservation (SAC); and
 - whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of internal space.

Reasons

Character and appearance

5. The appeal site comprises a narrow vacant plot of land on a 2-level terrace that is located opposite 22 Fairfield (No 22) in Christchurch. The site is described by the appellants as garden space and the main part of the site is set at a lower

level than the footway on Fairfield. Views are available from Fairfield across the site towards the banks of the River Avon and to the river itself.

6. Fairfield is a circular cul-de-sac, and predominantly consists of 2-storey detached and semi-detached dwellings built of brick which exhibit architectural stylings common to the early 20th century (including prominent gables and bay windows), although some more modern 2-storey flatted properties are also found within the local area. Residential infill developments, including at Lights Close and Fairfield Close, are linked to Fairfield.
7. The proposed dwelling has been designed in the form of a sustainable riverside outbuilding. However, although outbuildings are present in the street scene along Fairfield, they are not particularly common features within it. In any event, due to the plot being separated from No 22 by the carriageway and the main part of the site being lower than the footway, the proposed dwelling would not appear as an outbuilding associated with a dwelling, but rather as a standalone dwelling in the street scene.
8. With this in mind, as the proposed new dwelling would be single storey with a part shallow pitch and part flat roof with full-height rendered / timber cladded walls, it would starkly contrast with the design and appearance of the majority of nearby properties. Specifically, due to its design, proportions, and partially sunken nature within its plot, visually it would not integrate well with the early 20th century brick-built buildings referred to above.
9. Furthermore, due to its rendered walls, its window facing the road, and its angular shape, it would not blend into the natural landscape around and beyond it. The proposed dwelling would also partially obscure the view towards the River Avon which presently offers a pleasant counterpoint to the lines of residential development on nearby parts of Fairfield.
10. Therefore, although it would not appear as an especially prominent feature in the street scene due to its modest height, and over the long-term soft landscaping (which could be secured by condition) around the site would act to soften its impact, as would the proposed green roof, it would nevertheless stand out as an anomalous and incongruous feature within the street scene.
11. Little space would remain around the proposed dwelling, particularly around its southern and western elevations. Whilst plot sizes are varied in the local area, from nearby views of the plot from the footway at Fairfield the proposed dwelling would appear cramped within its small plot. This would exacerbate the harm to the character and appearance of the area, identified above.
12. I observed all of the examples of nearby development referred to by the appellants which were visible from public vantage points. Riverside Lodge, Avon Buildings, exhibits timber cladding on part of one of its side elevations, and I note that the plans provided for the approved riverside annexe to Riverside Lodge show an extensive use of timber cladding on that annexe.
13. Fairfield Close, Centenary House, Fairfield Court, and Sunrise Court each exhibit modern features which are at variance with the detailing commonly found on nearby older properties, including (amongst others) non-traditional feature windows, and an uncharacteristic roof canopy and undercroft car parking. Timber cladding is also present on part of the front elevation of Fairfield Court. I have also had regard to the existing planning permission for

Fairfield Works, involving a contemporary design, and in this regard I observed that construction works were underway at the time of my site visit.

14. Whilst the proposed new dwelling would incorporate external materials which would reflect some of the materials used on some of those more modern properties, including render, timber cladding, and slates, those properties (including the 4 contemporary-designed detached properties on Fairfield Close) are mostly broadly in keeping with their surroundings in terms of their overall proportions. For the reasons given above, this would not be the case with respect to the proposed development. Moreover, although Riverside Lodge is located within a conservation area and is larger than many of the nearby buildings along Avon Buildings, is of a markedly different design and scale to the proposed new dwelling.
15. Additionally, due to the considerably sunken nature of the proposed dwelling within its plot and the fact that the proposed dwelling would be somewhat separated from other properties on the same side of Fairfield, the proposed dwelling would not successfully integrate into the street scene to the degree that the examples cited by the appellants have.
16. For the above-mentioned reasons, the examples provided, although of relevance as they form part of the character of the area, are not directly comparable with the proposed development. As a result, they do not change my findings on this main issue.
17. I therefore find that the proposed development would have an unacceptable and significantly harmful effect on the character and appearance of the area. It would conflict with Policy HE2 of the Christchurch and East Dorset Local Plan: Part 1 - Core Strategy (adopted 2014) (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, and with part 1) of Policy H12 of the Borough of Christchurch Local Plan (adopted 2001) (Local Plan), which provides that, amongst other things, proposals for private residential development, on allocated and non-allocated sites, will be permitted provided that they are appropriate in character, scale, design and materials to the immediate locality.
18. The proposed development would also conflict with paragraph 135 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

River Avon SAC

19. The site falls within the catchment of the River Avon SAC, which as the Inspector noted in appeal decision Ref APP/V1260/W/21/3280644, is a large, lowland river system supporting various aquatic species, with a known issue with nutrients entering the river and adversely affecting environmental conditions for the qualifying species, with residential development contributing to an increase in phosphates due to foul water discharge.
20. In this context, it is common ground between the main parties that the proposed development would generate waste water, thereby creating an

additional phosphate load in the River Avon, which could potentially harm the water quality of the River Avon SAC.

21. The appellants have put forward mitigation, in the form of purchasing nutrient credits from the Bickton Strategic Mitigation Scheme, which is the Natural England approved scheme for the River Avon SAC. In this regard, the appellants have secured an 'in principle' agreement from Pennyfarthing Homes (operators of the Bickton Fish Farm phosphate mitigation project in Bickton, Fordingbridge) that sufficient capacity would be available to provide the proposed development with credits.
22. The Phosphates in the River Avon - latest position¹ document states that mitigation for the Christchurch area is 8 times more expensive than elsewhere in the catchment, and that house builders have confirmed that this is currently unaffordable in the Christchurch area. The evidence before me as part of this appeal does not contradict these statements.
23. In this regard, although the appellants' own the land at the appeal site, no specific information has been provided to illustrate the actual amount of credits which would be required to secure effective mitigation for the proposed development. Additionally, no quantifiable analysis has been provided relating to the extent to which the purchase of the necessary credits would affect the viability of the proposed development, including whether the proposed development could be delivered at a viable level.
24. Hence, based on the limited information before me in these respects, it has not been shown that the Bickton mitigation project is affordable with respect to the credits required for the proposed development. This results in significant uncertainty as to whether the mitigation scheme put forward would in reality be a feasible option for the proposed development. As such, whilst I note that neighbouring planning authorities have imposed a negatively-worded condition with respect to this issue, based on the evidence before me in this particular case, it would not be reasonable to impose a planning condition in relation to this matter, including a condition similar to condition number 5 imposed in appeal decision Ref APP/V1260/W/21/3280644.
25. In the absence of mitigation, it has not been demonstrated that the proposed development would secure phosphorous neutrality, and consequently that it would not have an adverse effect on the ecological integrity of the River Avon SAC. The proposed development would conflict with Policy ME1 of the Core Strategy which provides that, amongst other things, development should be refused if adequate mitigation or, as a last resort, compensation cannot be provided.

Living conditions

26. I have not been referred to any guidance which indicates that a room which is intended to contain one bedspace, which is over a certain size, should be assessed as if it would contain 2 bedspaces. Moreover, although the Council have referred to a previously refused scheme, and I note that planning legislation does not have a mechanism for ensuring only one person resides in a particular dwelling, I must assess the proposed development solely on the basis of the plans before me, which show a room with one bedspace.

¹ Phosphates in the River Avon - latest position (BCP Council) (October 2023)

27. It is common ground between the main parties that the proposed development would meet the relevant requirements relating to internal space for a one bedroom, one bedspace dwelling, and I have no reason to conclude otherwise.
28. I therefore find that the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of internal space. It would comply with Policy LN1 of the Core Strategy which provides that, amongst other things, all new housing will be required to be built to meet minimum living space standards for internal areas.

Other Matters

29. Further to paragraph 3 above, as the Council's 3rd reason for refusal relates to matters which are no longer contested issues between the main parties and the appeal is being dismissed for other reasons, it is not necessary to consider the submitted planning obligation in any further detail.
30. The finding on the 3rd main issue above, with respect to living conditions, is a neutral matter, which does not weigh in favour of the proposed development.
31. The Council did not refuse the application on matters relating to the living conditions of nearby residential occupants, highway safety, parking, refuse collection, trees, flood risk, drainage, and the setting of the Avon Buildings Conservation Area. However, even if I were to likewise reason that the proposed development would be in compliance with the development plan and the Framework in these respects, these would be neutral factors rather than ones which weigh positively in favour of the proposed development.

Planning Balance

32. As explained above, it has not been demonstrated that the proposed development would not have an adverse effect on the ecological integrity of the River Avon SAC. In this regard, paragraph 186 a) of the Framework provides that, amongst other things, if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
33. Considering this, and noting that footnote 7 of the Framework refers to habitats sites, which include Special Areas of Conservation, it is clear that the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development. The proposed development therefore falls within the remit of paragraph 11 d) i. of the Framework. In these circumstances, paragraph 11 d) ii. of the Framework is not engaged, and the proposed development would not benefit from the presumption in favour of sustainable development detailed at paragraph 11 of the Framework.
34. The proposed development would cause adverse impacts in relation to its unacceptable and significantly harmful effect on the character and appearance of the area. The Framework provides at paragraph 131 that, amongst other things, the creation of high quality places is fundamental to what the planning and development process should achieve. Furthermore, the proposed development's adverse effect on the ecological integrity of the River Avon SAC means that it would not accord with the Framework's aim to conserve the natural environment. Great weight is therefore given to the proposed

development's conflict with the relevant policies of the development plan and the Framework.

35. The proposed new dwelling would be located in an accessible location, within the defined Christchurch Town Centre boundary, and within walking distance of a wide range of services and facilities and frequent bus services. Details of cycle storage could be provided via a planning condition. Thus, it would comply with the settlement hierarchy detailed in Policy KS2 of the Core Strategy, and in principle with Policy CH2 of the Core Strategy which provides that, amongst other things, the town centre will be the focus for town centre uses including higher density residential development. The proposed development would also comply with Policy KS11 of the Core Strategy which provides that, amongst other things, development should be in accessible locations that are well-linked to existing communities by walking, cycling and public transport routes.
36. The various reports supplied by the appellants' relating to housing land supply, including the Five Year Housing Land Supply document², clearly demonstrate the importance of windfall sites towards housing delivery within the Council's area. In this regard, the proposed development would provide a minimal contribution towards the Government's objective of significantly boosting the supply of homes, referred to at paragraph 60 of the Framework. It would contribute to the choice and mix of housing in the locality, in an area where there is an ongoing need for 1 bedroom dwellings.
37. It is especially relevant that paragraph 70 of the Framework provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
38. The Issues and Options Consultation document³ recognises the need to plan for urban intensification within the Council's area. In relation to this, the proposed development would, in principle, make an effective use of land in its urban location, although due to my findings on the first main issue above, it would not comply with paragraph 128 e) of the Framework which provides that, amongst other things, planning decisions should support development that makes efficient use of land, taking into account the importance of securing well-designed places.
39. The proposed development would provide work for construction professionals during the construction phase. The future occupants of the proposed dwelling would also likely contribute to the economic and community life of the area, and potentially to nearby towns and villages.
40. The proposed living green roof and bird boxes (which could be secured via a planning condition), would contribute towards biodiversity. The proposed new dwelling would be constructed from low-impact materials and would utilise solar panels, in conformity with Policy ME3 of the Core Strategy which relates to sustainable development standards for new development. However, considering the small size of the site, it is likely that any net gain for biodiversity in this regard would not be significant.

² Five Year Housing Land Supply: Position at 1 April 2021 (BCP Council) (January 2022)

³ A Local Plan for Bournemouth, Christchurch and Poole: Issues and Options Consultation (BCP Council) (January 2022)

41. Although the proposed development would provide a contribution towards addressing the Council's deliverable housing sites shortfall, stated to be approximately 2.7 years, which is undoubtedly a considerable shortfall, the individual contribution of the proposed development in this respect would be minimal. Moreover, due to this quantum of development and the size of the site, the various economic, social, and environmental benefits accruing to the local area, summarised above, would not likely be significant, either over the short or the long-term. Moderate weight is therefore given to the proposed development's compliance with the relevant policies of the development plan and the Framework.
42. In balancing the great weight of the adverse impacts against the moderate weight arising from the benefits of the proposed development, it follows that the proposed development would conflict with the development plan when considered as a whole. The other considerations (including the provisions of the Framework), do not indicate that the appeal must be determined otherwise than in accordance with the development plan.

Conclusion

43. 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