



Appeal Decision

Site visit made on 4 April 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th April 2024

Appeal Ref: APP/V1260/D/23/3334197

7 Malmesbury Close, Christchurch, BH23 1NU

- 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 Ms K Maybank against the decision of BCP Council.
 - The application Ref. 8/23/0511/HOU, dated 17 July 2023 was refused by notice dated 5 October 2023.
 - The development proposed is for the erection of an outbuilding and pergola.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of development as set out in the decision notice, but removed the wording 'part retrospective application' as this is superfluous and not an act of development.
3. Since the application was refused planning permission a revised version of the National Planning Policy Framework (Framework) was issued in December 2023. However, the relevant policies remain the same as in the previous version, albeit some of the paragraph numbering has changed.
4. Whilst I was invited to visit 5 Malmesbury Close, when I called at the property there was no reply. However, I viewed the appeal proposal from a number of vantage points and I am satisfied that I saw everything I needed to see on site. I have proceeded to determine the appeal on that basis and with regard to the evidence before me which includes photographs and other details from various interested parties, the Appellant and the Council.

Main Issues

5. The main issues are the effect of the development on: (a) the character and appearance of the area; and (b) the living conditions of the neighbouring occupiers at 5 Malmesbury Close.

Reasons

Character and appearance

6. The appeal site comprises a two storey mid terrace property with accommodation in the roofspace located on the southern side of Malmesbury Close. It forms part of a modern estate that appears to have been built in the mid 2000's. Whilst the development is densely built, its form and layout are of

- a good quality resulting in an attractive estate of housing. The appeal site backs onto a narrow shared footpath that provides rear access to the host's garden and those of its neighbours, as well as some houses to the south in Creedy Drive. As with its immediate neighbours, the rear garden to the appeal site has a courtyard feel and is modest in terms of its size, width and length.
7. The appeal proposal involves the erection of an outbuilding and pergola within the rear garden to the host property. As these structures are already in place, planning permission is sought retrospectively to retain them. The submitted plan shows the inclusion of slatted fencing to both structures on that part of the elevations that extend above the height of common boundary fence with 5 Malmesbury Close (No.5), which is located to the west of the appeal site. As I observed on site, the slatted fencing has, however, not been installed and I understand this may be due to a boundary dispute and/or the inability to gain access No.5 to carry out this work.
 8. Both the outbuilding and pergola cover the western half of the rear garden with the eastern half comprising an open patio. The structures also extend along the whole length of the common boundary with No.5, from the rear boundary of the host up to its single storey full width flat roofed extension, which I understand was determined to be lawful in August 2019.
 9. It is not uncommon to find single storey extensions, outbuildings and other forms of storage containers, outdoor kitchens and entertainment areas within rear gardens, and for the latter to be covered to improve their enjoyment and to provide protection from the weather. Even so, combined, the single storey extension, outbuilding and pergola result in built development extending along the whole length of the rear western boundary to the host. I accept that the single storey extension does not form part of the appeal proposal and is lawful, but by adding to this the outbuilding and pergola the result is a visually intrusive development that overwhelms this modest plot and the surrounding area.
 10. As I observed on site, the outbuilding extends well above the common boundary fence to No.5 and is marginally lower than the permitted single storey extension to the host. The pergola also extends well above the common boundary but is lower in height than the outbuilding. Both structures are visible to the public and are out of character with the existing pattern of built development. I accept that there are outbuildings, sheds and conservatories in other gardens on the estate that are also visible, but none of these are, in my view, comparable to the combined prominence visually of the host's outbuilding and pergola. I also agree that some of the other outbuildings are not of a high quality but that does not in itself provide justification for the appeal proposal.
 11. The visual impact of these structures and their failure to make a positive contribution to or to improve the surrounding urban environment is unfortunately accentuated by the fact that both buildings are unfinished, with the proposed slatted fencing not in place. Instead, black polythene sheeting and the internal timber frame to both structures is visible, resulting in an unsatisfactory and poor appearance. I appreciate that this could be rectified, but that has not happened to date and there is no evidence before me to indicate when the development might be completed.
 12. I acknowledge that large parts of both structures and the internal layouts have been built to a high standard, using sustainable materials, natural wood and

living walls, but these considerations do not mitigate for the harm that arises to the character and appearance of the area. As to the prominence of the three garage forecourt to the south east of the appeal site, that is not, in my view, comparable as it appears to be a building that was built as part of the original design of the estate and as a feature to that parking forecourt, and is not sited within a rear garden. As I also confirmed above, there are outbuildings and sheds in other gardens but their extent and impact is far less than the appeal proposal. In that respect, had the proposal simply included the pergola, with its intended slatted fencing, then the impact on the character and appearance of the area would be significantly reduced.

13. Accordingly, I find that the retention of the outbuilding and pergola conflicts with policy HE2 of the Christchurch & East Dorset Local Plan Part 1 – Core Strategy (April 2014) (C&EDLP), saved policy H12 of the Borough of Christchurch Local Plan (March 2001) (CLP) and paragraph 135 of the Framework. These policies seek, amongst other requirements, to ensure that new development is of a high quality, that it is compatible with or improves its surroundings in terms of siting, scale, height and visual impact, and is sympathetic to local character and the surrounding environment.

Living conditions – neighbours

14. As I observed on site the owners of No.5 have recently built a single storey flat roofed extension, which is slightly lower than the single storey extension to the host but marginally deeper. Even so and as I confirmed earlier, beyond this extension the outbuilding and pergola extend well above the common boundary to No.5 and along the full length of this side boundary. As such, both structures are highly visible from the rear windows and garden to No.5 and cumulatively they are overbearing and overly dominant to the living conditions of the occupiers of that property. The result is an unneighbourly form of development that harms the outlook from the rear windows and garden to No.5.
15. I understand that No.5 is a holiday let, but that makes no difference to the assessment that must be undertaken or the requirement to ensure that new development does not impact on the living conditions of existing as well as future occupiers. It is the cumulative impact that results in the harm to the living conditions on No.5 and as I alluded to earlier had the proposal included just the pergola then the impact would have been significantly reduced.
16. Accordingly, I find that the retention of the outbuilding and pergola is contrary to policy HE2 of the C&EDLP, saved policy H12 of the CLP and paragraph 135 f) of the Framework. These policies seek to ensure, amongst other requirements, that development has regard to its relationship with nearby properties and their amenity, and secures a high standard of amenity (living conditions) for both existing and future users.

Conclusion

17. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR