



Appeal Decision

Site visit made on 23 January 2024

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 May 2024

Appeal Ref: APP/V1260/W/23/3315548

17 Privet Road, Bournemouth BH9 2NS

- 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 Slade of Bentley Slade Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2022-25143-A, dated 18 August 2022, was refused by notice dated 9 December 2022.
 - The development proposed is sever the land and construct a new two storey dwelling, with garden and parking (demolition of existing garage).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. The parties have had the opportunity to comment on the changes to the Framework insofar as they are relevant to this appeal. I have proceeded on that basis. References in the decision are to the December 2023 Framework.
3. As part of the appeal, the appellant has submitted a signed unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended), dated 10 July 2023. This makes provision for financial contributions towards mitigation against adverse effects on the designated Dorset Heathlands Special Protection Area (SPA), Ramsar site and Dorset Heaths Special Area of Conservation (SAC). I deal with this later in my decision.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of occupants of 19 Privet Road, with particular regard to its overbearing impact and overlooking.

Reasons

Character and appearance

5. Number 17 (No 17) is a two-storey detached dwelling with a single-storey garage to the side which would be demolished as part of the proposal and the

plot subdivided. The proposed dwelling would be positioned between the host dwelling and a two-storey L-shaped property at Number 19 and 19A (Nos 19 and 19A). No 19 has a unique orientation in that its front elevation faces towards the appeal site rather than the road.

6. The subdivision of the site would create a relatively narrow plot for the proposed dwelling. Although a modestly sized house is proposed, it would occupy much of the plot width and extend rearwards some distance, close to its shared boundary with No 19. Whilst part of this rear projection would be stepped away from the boundary at first floor level, the overall effect would be of a dwelling that would appear overly large and cramped within its plot. This would be clearly visible from the street where its large scale relative to the plot size would be apparent.
7. There are considerable variations in building designs and heights and no overall uniformity of building types along Privet Road and this provides some flexibility in terms of design. However, the proposed building would be viewed directly adjacent to No 17 and this forms its immediate context. The building would have a lower eaves and ridge height and narrower front elevation than No 17, appearing small in comparison to its neighbour. In this context, it would appear mismatched and incongruous.
8. No 19 has a lower ridge and eaves height to the proposed building. However, No 19, although adjacent, does not address the street and there is a less apparent visual relationship between these properties. This does not therefore justify the proposed design and character of the proposal, nor would it overcome the harm that would arise from its cramped form.
9. The building would be set back from the front elevation of No 17 to accommodate off-street parking and a bicycle store. This would cause some disruption to the building line along this stretch of Privet Road. This would emphasise the incongruity of the proposal in the context of surrounding development.
10. Certain elements of the scheme, including the use of render and similarly proportioned windows to neighbouring properties would be in keeping with nearby properties. I also recognise that the existing garage is not a high quality design and adds little to the appearance of the streetscene. However, the garage is not a prominent building and does not provide any justification for its replacement with an unsuitable dwelling as proposed here.
11. I therefore conclude that the proposal would be harmful to the character and appearance of the area. It would therefore conflict with Policies CS21 and CS41 of the Bournemouth Local Plan Core Strategy 2012 (the CS), Policy 6.8 of the Bournemouth District Wide Local Plan 2002 (the LP), Residential Development: A Design Guide 2008 (the Design Guide) and the Framework. Together these policies and guidance seek well designed development that contributes positively and is sympathetic to local character.

Living conditions

12. The proposed dwelling would be positioned close to the shared boundary with No 19, thus a narrow degree of separation provided by the single driveway serving No 19 would exist between the properties. This close proximity together with the height of the proposed dwelling, would lead to an

overbearing and oppressive impact when viewed from No 19. This would affect the outlook from rooms facing towards the appeal site, which are the primary windows serving this property. Views onto the street would still be available to these occupants, however, that outlook would be significantly reduced by the presence of the proposed dwelling directly opposite. No 19 also benefits from rear facing windows which would not be affected by the proposal. However, this would not overcome the loss of outlook and overbearing effect of the proposal on the main windows to this property.

13. The Design Guide sets out minimum distances between facing windows but none of the scenarios within this guidance reflect the relationship as proposed here. This does not alter my conclusions that the proposal would be unacceptable due to its proximity to the adjacent neighbour.
14. The side elevation of the proposed dwelling would have ground floor windows set behind the boundary fence and two upper floor windows, one serving a staircase and the other a bathroom. These windows could be conditioned to be obscured glass and non-openable to prevent any overlooking. The Council has agreed that a condition could be imposed requiring this.
15. There has been no objection from this neighbour. However, this in itself does not mean the proposal would not be harmful. This does not therefore alter my views on the proposal.
16. Consequently, I conclude that the proposal would adversely affect the living conditions of occupants of No 19, arising from its overbearing impact. Thus, the scheme conflicts with Policy 6.8 of the LP, Policies CS21 and CS41 of the CS, the Design Guide and the Framework. Together these require new development to respect the amenity and living conditions of neighbouring occupiers.

Other Matter

17. The appeal site lies within the 400m to 5 kilometre buffer for the Dorset Heathlands SPA, Ramsar Site and Dorset Heaths SAC. These are European sites of nature conservation importance and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). It has been identified that additional residential development within this buffer area would give rise to adverse effects on the European sites.
18. The UU makes provision for financial contributions towards measures intended to avoid or mitigate adverse effects on the European sites in accordance with Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document. As the competent authority for this appeal, I would need to undertake an appropriate assessment (AA) in accordance with the Regulations to confirm that the integrity of the European sites would not be adversely affected. However, it has not been necessary for me to pursue this further because the scheme is unacceptable for other reasons.

Planning Balance

19. The Council cannot currently demonstrate a five year supply of deliverable housing sites. The submissions indicate a supply of 2.3 years which is a significant shortfall. The development plans for the area are over five years old. There is no dispute that the provisions of paragraph 11 of the Framework and the presumption in favour of sustainable development should apply.

20. Paragraph 11 d) i) sets out that this does not apply where the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 explains that these assets include European sites. I have not completed an AA and reached a conclusion in this regard.
21. The provision of a single dwelling would make a small contribution to the supply of housing, in the context of a significant shortfall, in an accessible location. It would also contribute to the Council's identified need for small family-sized dwellings. There would be some limited economic benefits associated with the provision of an additional house. Due to the small scale of the scheme, I give these benefits moderate weight.
22. Weighed against this, the proposal would cause harm to the character and appearance of the area and the living conditions of neighbouring occupiers. These harmful impacts are matters of very substantial weight and importance in the planning balance.
23. In my view, even if I were to find the effects of the proposal on the European sites were to be acceptable, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.

Conclusion

24. I find that the proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR