



Appeal Decision

Site visit made on 4 June 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2024

Appeal Ref: APP/V1260/W/23/3331663

50 Southbourne Grove, Bournemouth BH6 3RB

- 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 A Bradshaw against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2023-13575-P.
 - The development proposed is extension to add an additional floor (Third) to provide 2 no flats with associated cycle and bin stores.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs A Bradshaw against Bournemouth Christchurch and Poole Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Planning permission was granted¹ at the site for alterations and extension at roof level to form an additional flat on 15 July 2021 (the Permitted Scheme). The Permitted Scheme is capable of implementation at the time that I am determining the appeal. If I were to dismiss the appeal, it is more than a theoretical possibility that the Permitted Scheme would be implemented. It therefore represents an established fallback position, and is a material consideration, to which I ascribe considerable weight in my decision.

Main Issues

4. The main issues are:
 - a) The effect of the development on the character and appearance of the area;
 - b) The effect of the development on the integrity of the Dorset Heathlands Special Protection Area (the SPA) and the Dorset Heaths Special Area of Conservation (the SAC);
 - c) The effect of the development on the living conditions of the occupants of Nos 3 and 4 Respryn Mews and Nos 9/9a New Park Road with regard to overlooking and loss of privacy; and,

¹ Local Planning Authority reference: 7-2020-13575-M

- d) Whether the development would provide suitable living conditions for future occupants with regard to privacy.

Reasons

Character and appearance

5. The appeal site lies on the north side of a busy street that has a mixture of commercial uses at ground floor, with accommodation above. There are a variety of buildings in the wider area, but they are generally of traditional design. The buildings on this side of the road, including the appeal property, are largely three storeys in height and of red brick construction with quoins, cornices, and decorated window surrounds, giving them a historic character. They have flat roofs with parapet walls, resulting in a simple, uncluttered roofscape. Whilst there are also buildings with a more contemporary appearance, their scale and roof form are consistent, so there is an overall coherence to the façade, which contributes positively to the character of the street scene.
6. The Permitted Scheme arose from a resubmitted application that followed a dismissed appeal². A parking issue that resulted in dismissal of the appeal was overcome, but the design was the same. It showed a flat-roofed zinc-clad addition, set back from all four edges of the building, with windows on the front elevation that aligned with those below. In his appeal decision the Inspector remarked that *"the zinc cladding would provide an acceptable contrast in material at this roof level, and with the setback from the parapets, would be an appropriate design response to the provision of additional accommodation that would not dominate or be detrimental to the appearance of the building"*.
7. Two subsequent proposals for a larger roof extension to provide two flats were dismissed on appeal³. The Inspector noted that the enlarged footprint of the extension would make it a more prominent addition that would be readily apparent from the opposite side of the road, as well as from mid distant views. Overall, he concluded that *"the additional prominence of the roof extension would disrupt the clear roof line which characterises this section of the road, which would be harmful to the street scene"*.
8. The current proposal would be reduced in scale from the more recently dismissed schemes. In particular, I am mindful that the set back and alignment of the front elevation would now be the same as the Permitted Scheme. Nevertheless, it would still be significantly more extensive than the Permitted Scheme, and would be closer to the rear and both side walls of the building. Indeed, the submitted floor plans show that the eastern wall of the extension would arise on the same plane as the existing wall of the building. Furthermore, it would be of rendered construction, with much larger windows in the front elevation that would have no visual relationship with those below in scale, proportion, or alignment. In all of these respects, the proposal would have more in common with the dismissed proposals than it would with the Permitted Scheme.
9. The increased scale of the extension, and its proximity to the edges of the original building, would make it a more prominent addition to the street scene. This would be particularly the case in views from the east, where the side of

² Appeal Ref: APP/V1260/W/20/3244321

³ Appeal Refs: APP/V1260/W/22/3305904 and APP/V1260/W/22/3305917

the building is visible, due to the recessed nature and reduced height of the adjacent property. In these views, the extension would appear as a cumbersome addition, which would fail to preserve the original form of the building. It would therefore be a noticeable feature that would disrupt the orderly roofline that is such a positive characteristic of the street scene.

10. Unlike the Permitted Scheme, with its modest scale, and muted cladding, the extension now proposed would be a dominant feature that would harm the appearance of the building and the character of the area. It would, therefore, be contrary to Policies CS21 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) (the Core Strategy) and saved Policy 6.10 of the Bournemouth District Wide Local Plan (February 2002) (the Local Plan). In combination these policies seek to ensure that new development is designed to be of a scale, density, layout, siting, character, and appearance that respects the site and its surroundings. Whilst my attention has not been drawn to any specific parts of it, the proposal would also conflict with the general aim of the Council's Residential Development: A Design Guide (2008) (the Design Guide), to promote and ensure good quality design in all new residential development. Furthermore, it would fail to meet the aim of the National Planning Policy Framework (the Framework) to achieve well-designed and beautiful places.

Integrity of the SPA and the SAC

11. Evidence shows that the SPA and SAC are under significant pressure from an increase in the level of recreation, and disturbance of bird species, as a result of urban development. The proposal would result in two additional dwellings within the area of influence of these European sites. Whilst the impact of two dwellings would be small, in cumulation with the 11,290 new homes that are projected in the Council's housing trajectory for the period 2020-2025, it has the potential to impact on the integrity of the protected sites, through increased recreational disturbance. In these circumstances, the Conservation of Habitats and Species Regulations 2017 require that an Appropriate Assessment (AA) be carried out, and that permission may only be granted after having ascertained that development will not affect the integrity of the European sites. I have carried out my AA on a proportionate basis with regard to the evidence before me.
12. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document sets out that mitigation for the impacts of development will be delivered through a combination of Heathland Infrastructure Projects (HIPs), and Strategic Access Management and Monitoring (SAMM). The HIPs will generally be funded by the Council using Community Infrastructure Levy receipts, whereas SAMM funding will be through individual contributions from all developments that involve an increase in dwellings.
13. The Council's decision notice indicates that its reason for refusal on this ground could be overcome through the submission of a Section 106 agreement. The appellant does not contest that mitigation is necessary, and states that a financial contribution will be secured through a legal agreement. However, no such agreement has been submitted with the appeal. Consequently, there is no mechanism in place to ensure that the increased recreational pressure resulting from the development would be mitigated. Following AA and adopting a precautionary approach, I am therefore unable to conclude that the development would not affect the integrity of the European sites. The proposal

would, therefore, be contrary to Policy CS33 of the Core Strategy, which says development will not be permitted unless it can be ascertained that it will not lead to an adverse effect upon the integrity, directly or indirectly, on the SPA and the SAC.

Living conditions of neighbouring occupants

14. The Inspectors in both of the previous cases have noted the mutual intervisibility that already exists between the rear elevations of the buildings in Southbourne Grove and those in Nos 3 and 4 Respryn Mews and Nos 9/9A New Park Road. Both Inspectors noted that the angle of any views, and the set back of the windows behind the proposed parapet wall, would prevent any material increase in overlooking. The windows in the current proposal would have a similar relationship with these properties, and I concur with the previous Inspectors that views out of the proposed accommodation would not result in any loss of privacy for neighbouring occupants.
15. However, unlike the previous proposals, the current scheme shows full-length windows in the rear elevation. This would allow occupants to step outside the accommodation and to advance right up to the parapet wall and look down into the windows and rear gardens of the neighbouring properties from a commanding position. In these circumstances there would be an increase in the level of overlooking and a harmful loss of privacy.
16. The appellant has, however, suggested that a condition could be imposed to prevent the use of the flat roof around the extension from being used as a terrace or balcony. The presence of full-length sliding doors would make such a condition difficult to enforce without a physical barrier, such as a balcony rail being installed, to prevent easy access to the roof. Had I been minded to allow the appeal, I could have imposed a condition incorporating these requirements.
17. With such a condition, the development would not result in harmful overlooking and loss of privacy for the occupants of neighbouring properties. The proposal would, therefore, comply with Policies CS21 and CS41 of the Core Strategy and saved Policy 6.10 of the Local Plan, insofar as these policies seek to protect the residential amenity of neighbouring residents. Again, my attention has not been drawn to any specific parts of the Design Guide, but a suitable condition would ensure that its objective of ensuring that existing residents are not adversely affected by new development could have been satisfied, as could the Framework's aim of creating places with a high standard of amenity for existing users.

Living conditions for future occupants

18. It is not disputed that the flats would provide suitable internal living conditions for future occupants. However, both flats would have full length sliding doors to the front and rear that would allow occupants to walk out onto the surrounding flat roof. No barriers are proposed to segregate this outdoor space, so residents could walk freely around the entire area, allowing intrusive views into the neighbouring living room and bedroom windows, which would be harmful to the privacy of occupants.
19. Segregation of the space could be achieved by the imposition of a planning condition, but effective barriers would likely be prominent and incongruous features at roof level, and would exacerbate the harm that I have already

found to the character and appearance of the area. Consequently, had I been minded to allow the appeal, I would have found it necessary to impose a condition preventing the use of the flat roof around the extension from being used as a terrace or balcony. For the reasons given under the previous issue, I would also have incorporated within this condition a requirement for a physical barrier, such as a balcony rail, to be installed, to prevent easy access to the roof.

20. With such a condition, the development would provide suitably private living conditions for future occupants. The proposal would, therefore, comply with Policies CS21 and CS41 of the Core Strategy and saved Policy 6.10 of the Local Plan, insofar as these policies seek to provide a high standard of amenity to meet the day-to-day requirements of future occupants. Again, my attention has not been drawn to any specific parts of the Design Guide, but a suitable condition would meet its objective of ensuring that a suitable standard of amenity is provided for future occupiers. The Framework's aim of creating places with a high standard of amenity for future users would also be achieved.

Planning Balance

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission, and therefore appeals, should be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found that the proposal would result in harm to the character and appearance of the area and the integrity of the SPA and SAC. The development would, therefore, be in conflict with Policies CS21, CS33 and CS41 of the Core Strategy and saved Policy 6.10 of the Local Plan.
22. It is not disputed that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 77 of the Framework. However, paragraph 188 of the Framework makes it clear that the presumption in favour of sustainable development does not apply where the proposal is likely to have a significant effect on a habitats site, unless an AA has concluded that the plan or project will not adversely affect its integrity. I have been unable to safely conclude that that is the case. Consequently, the approach to decision-taking described in paragraph 11d) of the Framework does not apply.
23. Nevertheless, the benefits of the proposal must be weighed against the harm that I have identified. Paragraph 60 of the Framework seeks to significantly boost the supply of homes. The development would provide two additional dwellings, which would assist with this aim. The site lies close to shops, public services, and sustainable transport options, so is a suitable location for residential development. Paragraph 70 says great weight should be given to the benefits of using suitable sites within existing settlements for homes.
24. However, whilst supporting development that makes efficient use of land, Paragraph 128 also identifies the desirability of maintaining an area's prevailing character. Paragraph 129 highlights the importance of ensuring that developments make the optimal use of the potential of each site. In this regard, the Permitted Scheme would achieve an additional dwelling on the site without the policy conflicts that I have identified.
25. There would be benefits to the economy associated with the construction phase of the development, and the future spend by occupants in the local area.

However, the Permitted Scheme would deliver similar benefits. The increased economic benefits of one additional dwelling would be limited, so carry little weight in my decision.

26. The Framework makes it clear at paragraph 12, that the presumption in favour of sustainable development does not change the statutory status of the development plan, and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The limited benefits associated with the proposal do not outweigh the conflict that I have found with development plan policies that seek to prevent harm to the character and appearance of the area and the integrity of European sites.

Conclusion

27. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR