



Appeal Decision

Site visit made on 18 June 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/V1260/W/23/3323863

Land to the rear of 833 & 835 Christchurch Road, Bournemouth BH7 6AR

- 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 Olliedog Properties Ltd against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref is 7-2023-4859-S.
- The development proposed is described on the application form as, "A new one bedroom bungalow to be built on a plot of cleared land at the rear of 833 & 835 Old Christchurch Road. The area of land is currently being cleared from it's current use as parking, bin storage and a cycle store for the dwellings in building numbers 833 & 835 Old Christchurch Road. The new plot is in the process of being defined as a separate plot of land with the land registry. The plot will be accessed only via Colville Road. A new property number and address is yet to be determined for the plot. 1B Colville Road is the preliminary suggestion for the new address. As seen on the proposed site plan, parts of the plot will be dedicated to cycle storage to be used by all dwellings in 833 & 835, and bin storage to be used by 833 & 835 plus the new proposed bungalow. Part of the plot will also be categorised as right of way access to the dwellings in 833 & 835 Old Christchurch Road. The proposed bungalow will provide accommodation for one person with one double bedroom. The design of the bungalow is to be single storey with a low pitched roof to keep the profile low and minimise the impact on surrounding dwellings. Solar panels are to be considered for installation on the south facing roof pitch along with an air source heat pump for more efficient heating costs and to reduce the reliance on a gas network connection. There have been 2 other similar developments along Colville road, one is to the rear of 841 Old Christchurch road and consists of a small bungalow, the other is further east along Colville Road. These developments show that the type of dwelling proposed in this application will be in keeping with other developments along the street".

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Differing to the description of development in the banner heading above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Erection of a 1-bed detached bungalow with associated access, involving removal of car park to the rear of existing flats and installation of pedestrian access and cycle stores for existing flats". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.

Main Issues

3. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on the integrity of habitats sites; and
- whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to internal space and privacy.

Reasons

Character and appearance

4. 833 and 835 Christchurch Road (Nos 833 & 835) are part of a row of terraced buildings in Bournemouth situated in a chiefly residential area which contain mainly commercial units at ground floor level with residential units above. The appeal site comprises land to the rear of Nos 833 & 835, which presently comprises a car park and an outbuilding.
5. Infill development has occurred to the rear of nearby buildings in the terrace. Whilst much of this is set-back from Colville Road, which the site adjoins, 841 Christchurch Road (No 841), an existing garage conversion, features prominently in the street scene. Even so, expansive areas of parking predominate along the site's side of the street and the presence of No 841 does not alter the fact that the site appears as being part-and-parcel of a wider parking and garaging zone to the rear of the terrace. As such, the site is in a rather exposed and prominent location in the street scene.
6. The scale of the proposed new dwelling has been chosen to meet the requirements of the Technical housing standards¹ as a 1 bedroom, 1 person dwelling. I have had regard to the submitted Google Aerial image² which shows relevant surrounding development, and I note the evident similarities in design terms between No 841 and the proposed new dwelling. Its layout has been designed to improve upon the plot at No 841, including by (amongst other matters) providing a greater separation from the edge of the footway.
7. Nevertheless, the proposed new dwelling would still be sited very close to both the footway and the eastern boundary of the site. A limited amount of space would remain towards the western boundary of the site, with the dwelling being served by a narrow patio and garden area. As a result, the proposed new dwelling would appear hemmed-in and congested within its small plot. Despite the similarities of the proposed new dwelling in design terms with No 841, due to the cramped layout of the proposed development on a plot which is situated in a prominent location in the street scene, the proposed development would result in harm to the character and appearance of the area.
8. The rectangular building situated immediately to the east of No 841 has the appearance of a garage / storage unit, rather than a dwelling as is proposed in this appeal. I observed that the building at 845C Christchurch Road (No 845C) is well set-back from the footway on Colville Road, such that it is not a prominent feature in the street scene. Similarly, in contrast to the proposed new dwelling, 2A Colville Road (No 2A) is not a prominent building in the street scene, due to it being clearly subservient in height to the taller dwellings adjacent to it and it being slightly set-back from the footway. Furthermore, due

¹ Technical housing standards – nationally described space standard (March 2015 (amended 19 May 2016))

² Image 1

to the markedly different design of the proposed new dwelling in comparison with No 2A and No 845C, their presence would not ensure that the proposed new dwelling would acceptably assimilate into the street scene.

9. As such, the presence of all these nearby buildings, whilst they form part of the local context, would not adequately mitigate the cramped appearance of the proposed new dwelling within its plot.
10. The shrubbery proposed to the front of the proposed new dwelling would have a minimal influence on the appearance of the dwelling in the street scene. Even though the site may have historically been more built-up, this appeal decision is based on the currently prevailing circumstances. Hence, none of these matters changes my findings above.
11. 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 third bullet point of the third paragraph of Policy CS21 of the Bournemouth Local Plan: Core Strategy (adopted 2012) (Core Strategy) which provides that, amongst other things, proposals for residential development will be expected to contribute positively to the character of the neighbourhood, and with the first paragraph of Policy CS41 of the Core Strategy which provides that, amongst other things, development should, through its layout, character and appearance be designed to respect the site and its surroundings.
12. The proposed development would conflict with part (i) of the second paragraph of Policy 6.8 of the Bournemouth District Wide Local Plan (adopted 2002) (Local Plan), which provides that, amongst other things, development will be expected to complement and respect the character of neighbouring development.
13. The proposed development would conflict with Policies BAP1, BAP2 and BAP7 of the Boscombe & Pokesdown Neighbourhood Plan (adopted 2019) (Neighbourhood Plan), which collectively provide that, amongst other things, all development should incorporate high standards of urban design.
14. The proposed development would also conflict with paragraph 135 c) of the National Planning Policy Framework (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).

Habitats sites

15. The site is within the 400 metres to 5km heathland area of the Dorset Heathlands, as defined in the Dorset Heathlands Planning Framework 2020-2025: Supplementary Planning Document (adopted 2020) (SPD). The Dorset Heathlands include, amongst other designations, the Dorset Heathlands Special Protection Area and the Dorset Heathlands Ramsar Site.
16. Paragraph 4.7 of the SPD provides that, amongst other things, Natural England advise that additional residential development within this area is likely to have a significant effect on the Dorset Heathlands either alone or in combination with other proposals, and that in order for an Appropriate Assessment to be able to conclude that there is no adverse effect on the integrity of the Dorset Heathlands it is necessary for certain types of development to require

avoidance or mitigation measures to be implemented to allow development to be approved.

17. As the competent authority, I am required to undertake an Appropriate Assessment in line with the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations), which includes taking account of any proposed mitigation measures.
18. The Council seeks a financial contribution towards mitigation measures for the relevant designated habitats sites, to be secured by way of a planning obligation. Although the appellant has indicated that they are willing to provide the financial contributions requested, no planning obligation has been submitted.
19. In relation to this, paragraph 18.2.2. of the Procedural Guide: Planning appeals – England provides that, amongst other things, the appellant must ensure that an executed and certified copy of a planning obligation is received at the time of making their appeal. The Planning Practice Guidance³ further advises that a negatively-worded condition limiting development that can take place until a planning obligation has been entered into is unlikely to be appropriate in the majority of cases. Exceptional circumstances have not been put forward which might mean that the imposition of a planning condition would be reasonable in the present case.
20. As effective mitigation has not been secured, the results of my Appropriate Assessment are that the proposed development would cause adverse effects on the integrity of the relevant designated habitats sites when considered in combination with other development. Hence, the proposed development would not meet the objective of the SPD to mitigate the impacts of new residential development upon the Dorset Heathlands, and it would not comply with the Habitats Regulations nor with s40 of the Natural Environment and Rural Communities Act 2006 (as amended).
21. I therefore find that the proposed development would have an adverse effect on the integrity of habitats sites. It would conflict with Policy CS33 of the Core Strategy which provides that, amongst other things, development will not be permitted unless it can be ascertained that the development will not lead to an adverse effect upon the integrity, directly or indirectly, of the Dorset Heaths international designations.

Living conditions

22. The bedroom for the proposed new dwelling would measure approximately 8.14 square metres. Accordingly, its floor area would be below that specified for a double bedroom, of at least 11.5 square metres, specified in the Technical housing standards. On this basis, I have considered the proposed new dwelling as comprising a single bedroom.
23. The proposed new dwelling would have a total floor area of approximately 38.5 square metres, which would exceed the requirement of 37 square metres given in the Technical housing standards for a 1 bedroom, 1 person dwelling with a shower room. For these reasons, in relation to internal space the proposed development would provide a good standard of accommodation which would benefit the quality of life of future occupiers, which paragraph 3.7.6 of the

³ Paragraph 21a-010-20190723

Residential Development: A Design Guide (adopted 2008) seeks to support, and it would not conflict with Policy BAP7 of the Neighbourhood Plan which provides that, amongst other things, all new residential units will be encouraged to comply with the Technical housing standards.

24. The garden for the proposed new dwelling would be situated near to the existing balcony which serves the first floor flat at 833 Christchurch Road. The proposed 1.8 metre obscure glass balustrade to be fitted to the perimeter of the balcony would however substantially alleviate any potential overlooking from the balcony. If the proposed development were acceptable in all other respects, potentially a planning condition could be imposed to secure this, which would ensure that the privacy of the users of the garden would be protected.
25. I therefore find that the proposed development would provide acceptable living conditions for future occupants, with particular regard to internal space and privacy. In relation to this main issue, no conflict would arise with Policies CS21 and CS41 of the Core Strategy which collectively provide that, amongst other things, development should provide a high standard of amenity to meet the day-to-day requirements of future occupants, and with Policy 6.8 of the Local Plan which provides that, amongst other things, development will be expected to provide a high standard of layout and design that ensures adequate privacy for the occupants of the building, and that development will be expected to provide a pleasant residential environment.
26. In relation to this main issue, no conflict would arise with paragraph 135 f) of the Framework which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

27. The finding on the third main issue above, in relation to living conditions, is a neutral matter, which does not weigh in favour of the proposed development.

Planning Balance

28. The Council has stated that it is unable to demonstrate a 5-year supply of deliverable housing sites. In this regard, the proposed development would contribute to both the Government's objective of significantly boosting the supply of homes and to local housing supply. The proposed new dwelling would be located in an existing and accessible residential area and would likely provide economic benefits stemming from the construction phase and from the spending of the future occupants. The use of solar panels and an air source heat pump has been suggested, which would reduce its reliance on fossil fuels.
29. The benefits of the proposed development are constrained by the minimal quantum of development proposed, of one new dwelling only. Little weight has therefore been given to the collective benefits of the proposed development. Consequently, the matters advanced in support of the proposed development, do not, either individually or collectively, outweigh the combined harm identified with respect to the character and appearance of the area and habitats sites, nor the conflict with the development plan identified.
30. Paragraph 186 a) of the Framework provides that, amongst other things, if significant harm to biodiversity resulting from a development cannot be

avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. As, following my findings on the second main issue above in relation to habitats sites, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, paragraph 11 d) i. of the Framework is applicable. This means that 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.

31. It follows that none of the other considerations, which include the provisions of the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

32. 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