



Appeal Decision

Site visit made on 25 June 2024

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 04 July 2024

Appeal Ref: APP/V1260/D/23/3329463

4A Elmstead Road, Poole, BH13 7EZ

- 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 C Hunt against the decision of Bournemouth Christchurch and Poole Council (the Council).
 - The application Ref is: APP/23/00651/F.
 - The development proposed is to erect a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted to erect a single storey rear extension at 4A Elmstead Road, Poole, BH13 7EZ in accordance with the terms of the application, Ref: APP/23/00651/F, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the course of the appeal, the Appellant submitted details of a Certificate of Lawfulness for a Proposed Use or Development, dated 12 April 2024, granted by the Council and which concerns the erection of a detached outbuilding to be used as ancillary accommodation at the appeal site. The Appellant maintains that the dimensions of that outbuilding substantially match that as proposed in terms of the appeal scheme, and that the Certificate of Lawfulness represents a fallback position. The Council were given the opportunity to provide comments on the Appellant's additional submissions regarding the Certificate of Lawfulness.

Main Issues

3. Although the Council has given two reasons for refusal on its Decision Notice, having regard to the submissions before me in this appeal, I consider it is appropriate to identify a single main issue.
4. Accordingly, the main issue in this appeal is the effect of the proposed development on the character and appearance of the area, having particular regard to the effect upon a protected tree.

Reasons

5. The host building is located within a residential area and comprises a detached two storey dwelling set back from the highway. The surrounding area is characterised by detached dwellings of varying designs and styles. The pleasant setting of Elmstead Road is enhanced by the presence of soft landscaping features including prominent and mature trees, giving the area a

verdant, sylvan character. Positioned to the east of the proposed extension and located on neighbouring land, there is a mature tree, which the evidence before me indicates is a Monterey Cypress, and which is subject to a Tree Preservation Order. The appeal scheme seeks to erect a single storey extension to the rear of the host dwelling.

6. Policy PP27 of the Poole Local Plan (November 2018) (the Local Plan) concerns design and sets out that development will be permitted provided that it reflects or enhances local patterns of development and neighbouring buildings in terms of height and scale, layout and siting including building line and built site coverage. Policy PP27 of the Local Plan further provides that extensions and alterations should be designed to respect and relate to the existing building, and maintain or enhance any details that contribute positively to local character.
7. The appeal scheme would not be highly visible from within the street scene nor from within the wider surrounding area. Where seen, in respect of height, design and scale, the proposed extension would complement the host dwelling. The proposal would occupy a modest amount of space at the rear of the host property, allowing sufficient space to the south of the host dwelling to remain for use as an external amenity area.
8. By reason of its dimensions, and given that the amount of external amenity area to be retained at the host property would appear to be commensurate with a neighbouring property, I do not find that the appeal proposal would result in the appeal property appearing to be cramped within its plot. In my view, the scheme would preserve the prevailing pattern of development within this area.
9. Notwithstanding the above, Policy PP27 of the Local Plan also confirms that development will be permitted provided that it responds to natural features on the site and does not result in loss of trees that make a significant contribution to the character and local climate of the area.
10. As noted above, there is a protected tree which is located on neighbouring land close to the shared boundary with the appeal property. The presence of such trees are important features in defining the character of the surrounding area and I consider that the protected tree makes a substantial positive contribution towards the sylvan and verdant appearance of the area. Whilst the appeal scheme would occupy part of the root protection area of this tree, the Council raises no concerns regarding the construction method of the proposed extension. However, due to the proximity of the tree to the proposed extension, the Council maintains that there will be pressure for heavy pruning or removal of the protected tree.
11. The Council does not expressly identify why the proximity of the proposed extension to the protected tree would result in such pressures. However, it is noted that the canopy of the protected tree would significantly overhang the proposed extension. It is therefore possible that there would be pressure to lop, top or carry out other works to that protected tree, in order to prevent extensive overshadowing, unacceptable loss of light, or damage by falling debris. The loss of, or work detrimental to, the appearance of this protected tree, which makes a substantial positive contribution, would, in my view, result in harm to the sylvan character and appearance of the area.

12. Nonetheless, at my site visit I also observed that the canopy of the protected tree already overhangs the host dwelling at the site to some degree. Consequently, it appears that there already exists the potential for overshadowing of, and damage by falling debris to, the existing property. However, I accept that the proposal would exacerbate that position, increasing the likelihood that the protected tree would need to be maintained. As such, it could be said that the proposal would result in harm to the sylvan character and appearance of the area.
13. That harm would result in the proposed development failing to accord with the aims of Policy PP27 of the Local Plan when taken as a whole. Notwithstanding that finding, given the existing spatial relationship between the protected tree and the existing host dwelling as described above, I attach only limited weight to that policy conflict in the determination of this appeal.
14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
15. As described above, the Council has recently granted a Certificate of Lawfulness for an outbuilding at the host property which, the evidence before me confirms, would occupy a similar position and amount of space at the host property, and which appears to have very similar dimensions to the proposed extension that is the subject of this appeal. In my view there is a greater than theoretical possibility that the fallback position would be implemented in the event that this appeal was dismissed. As such, I consider that the Certificate of Lawfulness for the erection of that outbuilding represents a realistic fallback position to which I attach significant weight in the determination of this appeal.
16. In this regard, whilst it could be said that the proposal would increase the likelihood that the protected tree would need to be maintained and which would be harmful to the character and appearance of the area, the fall-back position for the construction of the outbuilding would equally result in such harm. I conclude that the appeal proposal would be no more harmful than the fallback position. I therefore give the fallback position significant weight such that it outweighs the development plan conflict that I have found with regards to the effect of the appeal scheme on the protected tree. There therefore exists material considerations that indicate the decision should be made other than in accordance with the policies of the development plan.

Conditions

17. The Council have suggested conditions in the event that the appeal is allowed. Where necessary, and in the interests of clarity and precision, I have altered the wording of the conditions suggested by the Council. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. In order to protect the character and appearance of the surrounding area and the host dwelling, I am attaching conditions requiring materials used in the construction of the external surfaces of the development to match those used in the existing building and requiring that the development accord with the aboriginal method statement which was submitted with the planning application.

Conclusion

18. For the reasons given above the appeal should be allowed.

Mr A Spencer-Peet
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby approved shall in all respects accord strictly with drawing numbers: 344/HA/01 Location and Block Plan, 344/HA/02 Site Plan and 400/HA/04 Rev.A Proposed Elevations and Floor Plans received by the Local Planning Authority on 7 June 2023, and drawing numbers: GH2321 Rev.01 Tree Constraints GH2321a and Tree Protection Plan GH2321b received by the Local Planning Authority on 12 July 2023.
3. The external materials to be used in the construction of the development hereby permitted shall match those used in the existing dwelling.
4. All works relating to the ground clearance, tree works, demolition and development with implications for trees shall be carried out as specified in the approved arboricultural method statement (Ref. GH2321 Rev.1 received 27 July 2023), and shall be supervised by an arboricultural consultant holding a nationally recognised arboricultural qualification.