



Appeal Decision

Site visit made on 7 May 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2024

Appeal Ref: APP/V1260/W/23/3330657

142A York Road, Broadstone BH18 8EY

- 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 S Daniels against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref is APP/22/01762/F.
 - The development proposed is demolition of existing dwelling and replacement with 1no. bungalow.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and replacement with 1no. bungalow at 142A York Road, Broadstone, BH18 8EY in accordance with the terms of the application, Ref APP/22/01762/F, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including the effect on protected trees; and
 - the living conditions of the occupiers of 142 York Road (No. 142), having regard to activity, noise and disturbance impacts.

Reasons

Character and appearance

3. The row of dwellings on the same side of York Road as the appeal site are predominantly bungalows set considerably back from the road within large spacious garden plots. The adjacent residential property, 136 York Road (No. 136) to the north of the site is at variance with the prevailing character on that side of the road as it is a two storey building.
4. At the time of my site visit there was a detached dwelling (No. 136A) being constructed in the rear garden of No. 136. Additionally, the appeal site includes a former outbuilding that is located to the rear of No. 142 and has a lawful use as a self-contained dwelling, granted on appeal in 2020¹. These buildings to the rear of other dwellings do not form a predominant feature of the street scene.

¹ Appeal reference APP/V1260/X/20/3255926

5. York Road is also characterised by the abundance of tall prominent trees of varying species that line the edge of the road and form notable features within the individual garden plots. The site is within a Tree Preservation Order that covers an area around York Road. The Arboricultural Impact Assessment and Method Statement (the Statement), carried out by Gwydion's Tree Consultancy and dated 22 December 2022, confirms the proposed dwelling would be close to Category B/C Pedunculate Oaks (T1 and T2) and a Category B Scots Pine (T4).
6. The scheme has been revised in a number of ways to overcome the concerns of the Inspector who dismissed a previous appeal at the site in 2022². The proposed dwelling is a slimmer, linear building rather than the previous proposal for an L-shaped dwelling that would have enclosed one of the rear corners of the retained garden for No. 142. Additionally, the proposal is now for a flat roof building, which has been moved further away from the boundary with Nos. 136 and 136A. The retained garden for No. 142 is significantly larger than the previously dismissed scheme. The scheme before me therefore differs greatly from the scheme dismissed by the previous Inspector.
7. The proposed dwelling is larger in footprint and massing than the existing dwelling it would replace. However, the design of the proposed dwelling, its orientation and positioning within the plot, and the scale in comparison to the dwelling of No. 142 would mean that when seen from the limited viewpoints on York Road it would not be viewed as an intrusive and out of place building within the context of a residential back garden. Having regard to the presence of the existing garage and dwelling that would be demolished to facilitate the proposal, the increase in visual effect would be minimal and the proposed dwelling would not form a visually strident and jarring introduction into the local area.
8. While the plot retained for No. 142 would be consistent with the local area, the plot for the proposed dwelling would be narrower. However, the dwelling to plot ratio would not be so far removed from the surrounding plots to cause material harm to the residential character and appearance of the area. In addition, the previously outlined revisions made to the scheme since the previous appeal was dismissed have addressed the issue of cramped development.
9. Turning to the effect on protected trees, those trees are an important positive contributor to the character and appearance of the local area as they create the verdant aesthetic of the street scene. The Statement, prepared in accordance with British Standard 5837:2012, confirms that the proposed development would encroach into approximately 8% of T1's Root Protection Area (RPA) and 5% of T2's RPA. The RPA of T1 that would be covered by the proposed development is currently occupied by hardstanding.
10. As set out in the Statement, the impact on the roots of the trees can be mitigated through protective measures during the construction process and an engineering solution for the foundations of the dwelling, including the avoidance of excavating and grading the existing ground levels. The trees themselves can also be protected through the temporary erection of fencing around them. These are measures that can be secured through a suitably worded planning condition. The attachment of such a condition and the minimal encroachment into the RPA means that the proposed development would have

² Appeal reference APP/V1260/W/22/3292970

a minor effect on the protected trees during the construction process. Moreover, any direct effect on them, whether above ground or below, would be limited, and need not give rise to pressures for pruning or removal at a later date. Overall, on the evidence before me I have no basis to consider the long-term retention of significant trees would be in question as a result of the development, and so it would not alter the leafy character and appearance of the area.

11. For these reasons, the proposal would not materially harm the character and appearance of the area, including the effect on protected trees. Consequently, the proposal would comply with Policies PP27 and PP28 of the Poole Local Plan 2018 (LP). These policies, amongst other things, seek to ensure that new developments achieve a good standard of design, which reflects or enhances local patterns of development and neighbouring buildings in terms of layout and siting, including built site coverage, and only permit plot severances or plot subdivisions where there is sufficient land to enable a type, scale and layout of development to be accommodated in a manner which would preserve or enhance the area's residential character.

Living conditions

12. The proposed replacement dwelling would have two bedrooms consisting of a double bedroom and a single bedroom. The existing dwelling has one double bedroom. The presence of one additional person using the property and its outside space as part of their day-to-day occupation would not result in a materially harmful increase in the generation of activity, noise and disturbance experienced by the occupiers of No. 142.
13. The driveway serving the proposed dwelling would result in two vehicles being located to side of the No. 142. However, it is understood that vehicles associated with the existing dwelling currently park in the area in front of the to be demolished garage and to the side of No. 142.
14. There are windows in the side elevation of No. 142 that face over the parking area. In addition, the parking area would be in close proximity to the rear garden of No. 142. The sound of vehicles, the comings and goings of the vehicle occupants and the headlights of vehicles could lead to disturbance being experienced by the occupiers of No. 142. However, the minor increase in the number of potential occupiers of the proposed dwelling means that such activities in the driveway would also not result in a materially harmful increase in the activity, noise and disturbance experienced by the occupiers of No. 142.
15. Additionally, the appellant has proposed the erection of a boundary fence along the side of the driveway. This represents a notable revision since the dismissal of the previous appeal, and it would help to attenuate the noise impact associated with the use of the driveway and the visually intrusive activities potentially seen from the side windows of No. 142.
16. For these reasons, the proposed development would not result in material harm to the living conditions of the occupiers of No. 142, having regard to activity, noise and disturbance impacts. Consequently, the proposal would comply with Policy PP27 of the LP, in so much as it requires new development to be compatible with surrounding uses, and not result in a harmful impact upon amenity for local residents, including having regard to factors such as noise emissions and artificial light intrusion.

Conditions

17. The Council have suggested various conditions in the event that I am minded to allow the appeal. I have considered these against the six tests set out in the Framework and Planning Practice Guidance and made changes to the wording to add clarity and preciseness as appropriate.
18. The standard time limit condition and a condition listing the approved plans are necessary for planning certainty. Conditions to control external materials and requiring the installation of external lighting to be carried out in accordance with pre-approved details are necessary and reasonable in the interests of character and appearance of the area.
19. A condition requiring compliance with pre-approved arboricultural protection measures is reasonable and necessary to prevent harm to trees during construction works that in turn could be detrimental to the character and appearance of the area. A further condition is also reasonable and necessary to ensure that the foundations and underground services for the development do not cause future harm to the protected trees.
20. The laying out of the parking area prior to first occupation of the replacement dwelling and retention of said parking area is important to prevent potential harm to highway safety. A condition ensuring this work takes place would therefore be reasonable and necessary. To minimise the effects of the development on the environment, a condition is imposed to ensure the development provides electric vehicle charging points.
21. The removal of permitted development rights for the enlargement of, or alterations to, the replacement dwelling is necessary and reasonable given that alterations to the form, materials or fenestration could affect the character and appearance of the area and potentially result in material harm to the living conditions of the occupiers of neighbouring properties.
22. A condition relating to unexpected contamination would prevent any potential impacts on human health and the pollution of the environment.

Conclusion

23. For the reasons given above, the appeal should be allowed.

K Reeves

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers 200-157/03, 200-157/04a, 200-157/05, 200-157/06 and 200-157/07a.
- 3) No development shall take place, nor any demolition works or site clearance, until there has been submitted to, and approved in writing by, the Local Planning Authority details of a scheme for the protection of the existing trees shown on drawing number GH22132a (Tree Constraints Plan (Existing)) in the Arboricultural Impact Assessment and Method Statement (by Gwydion's Tree Consultancy and dated 22 December 2022). The scheme shall include all appropriate tree protection measures required before and during the course of development (in accordance with BS5837:2012), any proposed pruning, felling or other work, any proposed alterations to existing ground levels and of the position of any proposed excavation that might affect the root protection area. The approved scheme shall be carried out during the demolition of the buildings and throughout the course of the development.
- 4) No development shall take place, nor any demolition works or site clearance, until there has been submitted to, and approved in writing by, the Local Planning Authority details of the development's foundation design and underground services, to take account of the existing trees shown on drawing number GH22132a (Tree Constraints Plan (Existing)) in the Arboricultural Impact Assessment and Method Statement (by Gwydion's Tree Consultancy and dated 22 December 2022). Development shall thereafter take place in accordance with the approved details.
- 5) Any contamination that is found during the course of construction of the permitted development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to, and approved in writing by, the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to, and approved in writing by, the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.
- 6) Prior to their installation, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) Prior to the first occupation of the development hereby permitted, details for the installation of electric vehicle charging points shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the approved details shall be provided on site prior to the first occupation of the development and shall be retained for the lifetime of the development.
- 8) The development hereby permitted shall not be first occupied until space has been laid out within the site in accordance with drawing no 200-157/04a for 2 cars to be parked and that space shall thereafter be kept available for the parking of vehicles in perpetuity.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B and C of Part 1 of Schedule 2 to the Order shall be undertaken.

End of Schedule