

Appeal Decision

Site visit made on 8 August 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2024

Appeal Ref: APP/V1260/W/24/3336238

54 Elms Avenue, Poole BH14 8EF

- 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 and Mrs Yeoman against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00900/F.
 - The development proposed is Demolition of existing property and erection of replacement house.
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Decision

1. The appeal is dismissed.

Applications for costs

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

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the living conditions of neighbouring occupiers at No's 56 Elms Avenue and 62 Pearce Avenue, with particular regard to outlook and privacy;
 - trees within and overhanging the site.

Reasons

Character and appearance

4. The appeal site is located on the south-western side of Elms Avenue close to its junction with Pearce Avenue and comprises a detached house and garage enclosed by tall, rendered walls, fencing and planting. The immediate residential area consists of two slightly different character areas. The first comprises detached dwellings with a traditional frontage to Elms Avenue and Pearce Avenue that are predominately two-floors, some with accommodation within the roof. The second comprises the dwellings at the south-eastern end of Elms Avenue and on Pearce Avenue with a water frontage. These

properties are generally larger, taller, and positioned in long narrow plots with a number having been redeveloped. Furthermore, they turn their back on the road, are set a considerable distance back from the road behind gated driveways facing out onto the harbour. In both areas, there are a mix of traditional and more contemporary designs utilising a mix of materials.

5. The appeal site sits within this second character area and is adjoined on both sides by modern contemporary dwellings over a number of floors with significant footprints. The appeal site benefits from a harbourside frontage on a similar sized plot and footprint. Given the position of these dwellings close to the water edge, their prominence from Elms Avenue and Pearce Avenue is diminished, but there are views available given their height and scale. Where visible they appear as part of the wider row of large dwellings over three or four floors of differing designs. This is reflected in views from the harbour where the dwellings forming No's 54-62 Elms Avenue and 38-62 Pearce Avenue comprise a row of a mix of traditional and contemporary houses of generally similar heights, albeit with No.56 Elms Avenue appearing the tallest. Within this row, a number of properties have been significantly altered or re-built, generally over three or 4 floors with extensive glazing, balconies and flat roofs or more modern roof forms.
6. The proposal would replace the existing dwelling with a more contemporary dwelling matching its neighbours. It would follow other dwellings in this row through the use of render, glazed elevations, and balconies and in that regard would be compatible with the evolving built form of the row and area.
7. The ground floor of the existing dwelling on the appeal site projects forward of its neighbouring properties and the proposal seeks to replicate this. Although it is also proposed to construct a new lower ground level beneath this, this would be similar to the lower level to the adjacent dwelling at No.62 Elms Avenue and as such would not be out of character. Furthermore, this lower ground floor would be partly obscured in views from the harbour by the tree in the terraced garden and its associated retaining structure.
8. However, the accommodation would be over six floors, at odds with the generally three or four floor character of the closest nearby dwellings. Furthermore, as the proposed building rises in height, and although each floor is proposed to be set back further and becomes smaller in area, the top floor would be a floor taller than the ridge of the existing property and a floor taller than No.56 Elms Avenue that is already the tallest in this row. The proposed dwelling would be over two floors taller than No.62 Pearce Avenue. Although the upper two floors would be set back within the roof and set away from the roof edge such that they are narrower and subservient to the main house, the upper floors to other properties in this row are also generally set back or subservient. The existing dwellings are generally of a similar height with only a single floor height difference between adjoining properties with the appeal property sitting comfortably between its neighbours rather than appearing undersized or dwarfed by them.
9. As a result, when viewed from the harbour and from the properties adjoining the appeal site, the upper floor would be significantly taller than the adjoining dwellings. As a result of this, and rather than simply reasserting the hierarchy of built form, the height in combination with the number of

other floors, would exceed and be at odds with the prevailing character and appearance of the area and be more prominent and over scaled than would be appropriate. Furthermore, the additional floor and its set back nature over the floor below that is also set back, creates a building with an overly tall, narrow, and tapering emphasis. This disparity would also be at odds with, and out of scale with the general uniformity of dwellings in the row that are of similar widths, heights, and proportions with less vertical or tapering emphasis. This would be the case despite the presence of the tree screening part of the building from some harbour views.

10. From Elms Avenue and Pearce Avenue, the proposed dwelling would be partly screened by existing trees and its gated entrances and would be set back a considerable distance from the street. However, where visible, the narrow and tall emphasis created by the upper floor in particular would be at odds with the form, scale, and height of its neighbouring dwellings. As a result, the proposed height of the dwelling would not adequately respect the prevailing character and appearance of the area.
11. Accordingly, for the above reasons, the proposal would cause harm to the character and appearance of the area. As such, it is contrary to Policy PP27 of the Poole Local Plan 13 November 2018 (PLP). Amongst other things, this requires a good standard of design in all new developments and states that development will be permitted that reflects or enhances local patterns of development and neighbouring buildings in terms of siting, height and scale, bulk and massing, including that of the roof, and visual impact.

Living conditions of neighbouring occupiers

12. As identified above, the ground floor of the appeal property already projects beyond the harbour facing elevations of No's 56 Elms Avenue and 62 Pearce Avenue with a balcony above. In light of this, given the provision of upper balcony levels to No's 56 and 62 and subject to the provision of privacy screens to sides of the more open first and third floor balconies, there would be no greater harmful levels of overlooking from these lower floors of the building or that prevailing in the area. However, in light of the provision of a terrace around the top floor, this would result in overlooking down into the outdoor space to No's 56 Elms Avenue and 62 Pearce Avenue and a perception of being overlooked from a raised position. Such overlooking would be harmful to the living conditions of the respective occupiers.
13. The appeal proposal would be taller and deeper than the existing dwelling and as a result would present a greater bulk of built form to No.56 Elms Avenue. However, in light of the presence of a considerable boundary wall and planting between No.56 and the appeal site and character of this row of properties providing development of depth close to their boundaries, I do not find that the additional height and bulk would appear harmfully overbearing. Furthermore, it would not result in a significant loss of light in comparison to the existing dwelling and given the orientation of No.56 to the south-east.
14. The appeal proposal would also be taller than No.62 Pearce Avenue, although it would be of a similar depth. At present, No.62 benefits from a rear projecting wing that is positioned in close proximity to the appeal site boundary. Given the presence of this rear wing, and positioning of the rear of the proposed dwelling further from this boundary than the existing rear

wing, the proposal would not result in any detrimental overbearing impact or overshadowing upon No.62. I further note that planning permission¹ has been granted to provide a pitched roof to this wing and to the upper floor.

15. No's 56 Elms Avenue and 62 Pearce Avenue comprise a small number of windows and enclosed balconies to the upper floors of the side elevations facing the appeal site. The nature of the glazing to these windows and balconies prevented clear views into them at the time of my site visit. There is a further wrap-around window to the rear of No.56 that was not obscured at the time of my site visit. The appeal property already has a number of windows in both of its side elevations and as a result there is already a level of mutual overlooking. Nonetheless, in order to protect the living conditions of the occupiers of the adjacent dwellings from the proposed windows, any proposed windows in close proximity to those to No's 56 and 62 could be obscure glazed and fixed shut by condition should I allow the appeal.
16. In light of the above, and although I have found no harm with regard to outlook, I conclude that the proposal would harm the living conditions of neighbouring occupiers at No's 56 Elms Avenue and 62 Pearce Avenue, with particular regard to privacy. Accordingly, the appeal scheme would conflict with Policy PP27 of the PLP. Amongst other things, this states that development will be permitted provided that it would not result in a harmful impact upon the amenity for both local residents and future occupiers considering levels of sunlight and daylight, and privacy.

Trees

17. There are two trees (T2 Douglas Fir and T3 Scots Pine) overhanging the site and its existing access off Elms Avenue. There is a further tree (T1 Scots Pine) within the site to its frontage with the harbour. All three trees are subject to Tree Preservation Orders and are proposed to be retained. The planning application is accompanied by an Arboricultural Impact Assessment & Method Statement (AIA). The AIA states that the proposed new secondary access is well beyond the root protection areas of trees T2 and T3 that will not require removal or pruning and as such identifies no harm to these trees from the proposal. I have no reason to disagree.
18. The AIA does however acknowledge that tree T1 is located closer to more significant changes forming part of the proposal. The AIA goes on to state that the Root Protection Area (RPA) of T1 is constrained by existing structures on all sides forming parts of the retaining walls of the terraced landscaped garden. While the AIA confirms that the area around the tree is less than that recommended, and therefore likely to contribute to the trees reduced vitality, it clarifies that the proposed building has been designed around the existing levels. In light of this the AIA states that there will be no further excavation within the tree's RPA.
19. The extent of existing and proposed development can be identified from the plans with the existing constraints and retaining features around T1 clearly visible at my site visit. As a result, I find that there is adequate detail available to assess the proposal. In this regard, and although the proposed dwelling would be located in closer proximity to the tree, it is proposed to

¹ APP/22/00773/F

finish on the line of existing and significant retaining walls to ensure no greater encroachment into the RPA. Furthermore, the proposal includes the removal of existing decking and hardsurfacing under the south-eastern extent of the RPA to improve growing conditions.

20. I therefore conclude that the proposal would not harm trees within or overhanging the site. As such, it complies with Policy PP27 of the PLP. Amongst other things, this states that development will be permitted provided that it does not result in the loss of trees.

Other Matters

21. The site falls within the Dorset Heathlands and Poole Harbour Special Protection Areas. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Conservation of Habitats and Species Regulations 2017 further.

Planning Balance

22. I have had regard to the proposal providing satisfactory external and internal space, adequate parking, cycle, refuse and recycling facilities, minimising crime, making an efficient use of land, providing a different type of housing, and not prejudicing the future development of adjoining sites. Nonetheless, as these are requirements of local planning policy and national guidance, they are neutral in my consideration of this appeal.
23. The Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, the provisions of footnote 7, paragraph 11 d) ii. of the National Planning Policy Framework (the Framework) should be applied. However, the proposal seeks the replacement of an existing dwelling and as such would not add to the supply of housing sites. Furthermore, while there would be benefits from spend and jobs associated with construction, such benefits would be limited by reason of the scale of the proposal, and I have found that the proposal would cause harm to the character and appearance of the area and to living conditions. Accordingly, when assessed against the policies in the Framework taken as a whole, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Conclusion

24. Although I have found no harm with regard to the effect of the proposal on trees, it would cause harm to the character and appearance of the area and living conditions of nearby occupiers and as a result conflicts with the development plan. In my view, these are the prevailing considerations, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.
25. Material considerations outlined above, including the Framework, do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR