



Appeal Decision

Site visit made on 30 April 2024

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2024

Appeal Ref: APP/V1260/W/23/3326580

843 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 Mr De Kment against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2022-10274-P.
 - The development proposed is to convert existing garage to 1 bedroom flat with the addition of a storey above.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises a two storey, 1-bed house, rather than a flat. The Council dealt with the proposal on this basis and so shall I.

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 living conditions of neighbouring occupiers at Flat 3, 843 Christchurch Road with regard to outlook and daylight;
 - Whether the proposed development would provide adequate living conditions for future occupiers, with regard to internal space, outlook, daylight, noise, and privacy; and
 - Whether the proposed development would contribute appropriately to the housing mix of the area.

Reasons

Character and appearance

4. The appeal site lies to the rear of Christchurch Road, addressing Colville Road. While it is not a service street, this part of Colville Road is primarily formed by the rear of properties on Christchurch Road, and the side of properties on Queensland Road and the southern leg of Colville Road. In this context it is

dominated by parking and other features not typically associated with frontage development, including tall fences and walls, bins and bin stores, and garaging.

5. While there are exceptions to this pattern and some residential frontages are apparent, these are isolated examples, and do not define the overall character of the area. Moreover, where residential frontages are apparent, they either maintain a subordinate character as modest single storey built form, or maintain a clear set back from Colville Road behind ancillary parking areas. Overall therefore, the character and pattern of development is that of rear, ancillary, and service uses. Whether or not the garage building remains ancillary in use, as a subordinate structure it currently maintains the established pattern of development in this location. The presence of a small parapet wall does not alter this character.
6. The proposed development would introduce a notable increase in height of development at the edge of Colville Road. While it would not be two full storeys with a pitched roof, as a 1.5 storey structure the ridgeline would sit above that of the existing flat roofed two storey extension at the rear of No 843. In addition, while there are differing heights and styles of development present in the area, the height and massing of the proposal, including the side walls with elevated eaves, would be unusually large against the edge of Colville Road. Despite maintaining a consistent materials palette with the existing building, it would therefore represent a marked departure from the prevailing scale and subordinate character of development adjacent to Colville Road in this location. Clearly visible as a prominent element on approaching the appeal site from either direction, it would form an incongruous addition to the street scene.
7. Amongst the planning history of the site, my attention has been drawn to an expired planning permission at No 843¹. The evidence indicates that this was a substantially different scheme, considered and approved under a different national and local planning policy framework. Accordingly, while I have had regard to this decision, it has limited bearing in my consideration of this appeal, which I have determined on its own merits.
8. Taking all of the above into account, I conclude that the proposal would result in detriment to the character and appearance of the area. This would conflict with Saved Policy 6.8 of the Bournemouth District Wide Local Plan (DWLP), and Policies CS20, CS21 and CS41 of the Core Strategy Bournemouth Local Plan (2012) (CS). Taken together, amongst other matters, these policies seek good design that respects the site and its surroundings in terms of scale, siting, character and appearance. There would also be conflict with the Council's Residential Design Guide where it seeks to ensure that development respects building lines and street patterns, and has an appropriate scale. I also find conflict with the Framework where it seeks developments that are sympathetic to local character, including the surrounding built environment.

Living conditions – neighbouring occupiers

9. The neighbouring property at Flat 3 is positioned to the rear of the appeal site at first-floor level. It currently has an open aspect from its primary living space towards Colville Road from a large window and partially glazed door. Given the proximity and height of the proposed first-floor addition directly opposite this aspect, the development would introduce an overly dominant structure which

¹ Application reference 7-2007-10274-N

would harm the outlook from the facing windows in the neighbouring property. This would materially harm the living conditions of the neighbours at Flat 3.

10. The appellant has pointed out that there is no right to a view. However, loss of outlook relates to where a development would have an overbearing effect that would result in an oppressive environment for existing occupiers. This is the harm I have found in respect of the occupiers of Flat 3 in relation to the proposed development.
11. There is no technical information in respect of the potential impact on light. However, based on the evidence before me, given the proximity of the first-floor element of the proposal, and the importance of the facing windows in allowing light to enter the primary living space of the existing flat, the development would have a harmful impact on the levels of light reaching the windows of Flat 3. Although the proposed sloping roof would reduce this effect to a degree, the development would still represent a substantial mass across the width of the garage, notably restricting light levels to the neighbouring property.
12. I therefore conclude that the proposal would harm the living conditions of the neighbouring occupiers at Flat 3, with regard to loss of outlook and loss of light. This would conflict with Saved Policy 6.8 of the DWLP and Policies CS21 and CS41 of the CS insofar as they seek development that respects and enhances neighbouring residents' amenities. There would also be conflict with the Council's Residential Design Guide where it seeks to ensure that existing residents are not adversely affected by new development, including matters of daylight and outlook, along with Section 12 of the Framework where it seeks developments which create a high standard of amenity for existing users.
13. In relation to this main issue, the Council has also found conflict with Policy CS20 of the Core Strategy, and Policies BAP6 and BAP7 of the Boscombe and Pokesdown Neighbourhood Plan (2019) (BPNP). As there are no tests or objectives within these policies regarding the living conditions of neighbouring occupiers, I find no conflict with them in respect of this main issue.
14. The Council has also found harm in respect of outlook from the external terrace, currently used by the neighbouring occupiers as an amenity space. As the evidence indicates that there is no authorised use of this space, I attach limited weight to any harm in this regard. The appellant has suggested that the development could secure the authorised use of this space, improving the living conditions of the occupiers at Flat 3. However, even if a suitably worded condition could secure such a use, any benefit in this regard would not alter or outweigh the overall harm to living conditions outlined above.

Living conditions – future occupiers

15. The Council refers to the minimum space standards set out in the Government's Technical housing standards – nationally described space standards (NDSS). These stipulate for a one-bedroom, two-person two-storey dwelling, the minimum gross internal area (GIA) should total 58 sqm. It also requires a minimum floor to ceiling height of 2.3m for at least 75% of the GIA. Although these standards are not referenced in the Core Strategy or the DWLP, they are referenced in Policy BAP7 of the BPNP, which seeks to secure quality new homes.

16. The appellant has provided information with the appeal to demonstrate that the dwelling would meet the minimum floor to ceiling height requirements of the NDSS, and I see no reason to disagree with these calculations. However, the GIA of the proposed dwelling over two storeys would be approximately 45 sqm; a shortfall of approximately 13 sqm against the NDSS, and approximately 5 sqm against the lower figures quoted in Policy BAP7.
17. Although the appellant asserts that the dwelling would be for one person and therefore have a smaller GIA requirement, I am not satisfied based on the evidence submitted that this is the case. The intention of the NDSS is that the size of the bedroom determines how occupancy is defined, with the number of persons based on the number of bed spaces. In this case, the bedroom would appear to meet the minimum size for a double bedroom, indicating two occupiers. Although the appellant refers to a 'one-person dwelling' being applied for, there is no substantive evidence of this description before me. The failure to provide accommodation that meets national minimum standards therefore indicates that future occupiers would have insufficient internal space.
18. The primary open-plan living space on the ground floor would be a relatively deep room served by a pair of windows facing directly onto the pavement, and a smaller side window to the kitchen. It is likely that the windows facing the pavement would need some form of curtains or blinds present at most times to provide privacy. While this would not need to fully obscure light from the living space, there would be a clear reduction in the levels of daylight and outlook to this area through the continuous shading of these windows. Although the kitchen window would not need screening for privacy, at a high level it would provide limited outlook from the internal space. Without any other windows serving the area, in my view the primary living space would have an unacceptably poor and oppressive outlook, and insufficient daylight.
19. The large first-floor window would be set back from the pavement edge behind the balcony, and would allow for adequate daylight, a greater level of privacy, and a more open outlook from the bedroom. However, this would not outweigh the harm I have described to the outlook from, and daylight available to, the open-plan living space.
20. While Colville Road is a relatively quiet street without significant through-traffic, the high level of car parking in this part of the road would result in a notable number of vehicle movements at key times of the day. There are no parking areas directly opposite that would cause lights to play directly into the ground floor windows of the new dwelling. Nevertheless, I consider that the proximity of the primary living space to the road and high number of vehicles manoeuvring in and out of spaces in the local area would result in sufficient noise and disruption to give rise to a poor living environment for occupants of the development.
21. While the effects on the privacy of future occupiers could be addressed with window treatments, for my reasons above I conclude that the proposal would not achieve a satisfactory level of living conditions for future residents with particular regard to internal space, outlook, daylight, and noise. This would conflict with Saved Policy 6.8 of the DWLP, Policies CS21 and CS41 of the CS, and Policy BAP7 of the BPNP insofar as they seek development that respects and enhances the amenities of future occupiers. There would also be conflict with the Council's Residential Design Guide where it seeks high standards of

accommodation, along with Section 12 of the Framework where it seeks developments which create a high standard of amenity for future users.

22. As with the effects on neighbouring occupiers, in relation to this main issue, the Council has also found conflict with Policy CS20 of the Core Strategy, and Policy BAP6 of the BPNP. As I have found above, these policies do not contain tests or objectives relative to this main issue, and are predominantly related to the delivery of housing. As such, I find no conflict with them regarding the living conditions of future occupiers. However, I have separately considered the site's contribution to the housing mix of the area below.

Housing mix

23. The proposal is for a 1-bedroom dwelling. Policy BAP 6 aims to provide more 2- and 3-bedroomed dwellings, recognising a dominance of 1-bedroom dwellings being completed in the area. Alongside this aim, Policy BAP6 requires that developments of 9 or less dwellings include at least 1 x 2 bed flat with direct access to outside amenity space if available, and at least 1 unit which meets lifetime home standards. The dwelling has access to outside an outside amenity space, albeit small. However, a 1-bedroom house rather than a 2-bedroomed flat is proposed, and the evidence indicates that the dwelling would not meet lifetime home standards.
24. The appellant has identified physical constraints at the appeal site which mean that development in this location would not be able to meet the requirements outlined above. In addition, they have highlighted areas of conflict between Policy BAP6 and the CS. Nevertheless, the aims of Policy BAP6 include promoting family housing, which reflects an identified need in the neighbourhood plan area, based on the Strategic Housing Market Assessment (SHMA) and evidenced completions for the ward. This policy approach broadly accords with Policies CS20 and CS21 of the CS, which encourage small family dwellinghouses, and expect proposals to reflect the housing size demands of the Borough as identified in the SHMA.
25. The appeal dwelling would be small and within the size threshold for a small family dwelling house outlined by Policy CS20. However, having regard to my findings above, a dwelling with insufficient space to accommodate two people would not represent a small family house or reflect the housing size demands of the area. Accordingly, while I have had regard to the physical constraints of the site, the proposal would not contribute appropriately to the housing mix of the area, in conflict with policy BAP6 of the BPNP and Policies CS20 and CS21 of the CS.

Other Matters

26. The appeal site is located within 5km of the Dorset Heathlands, containing several international designations including the Dorset Heaths Special Area of Conservation, the Dorset Heathlands Special Protection Area, and the Dorset Heathlands RAMSAR site. In accordance with the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document, additional residential development in this area is likely to have a significant effect on the Dorset Heathlands. The evidence indicates that these effects could potentially be mitigated through contributions secured by way of a legal undertaking, the details of which have been submitted with the appeal.

27. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Planning Balance

28. The parties agree that the Council is not able to demonstrate a five-year supply of deliverable housing sites. The Council sets out that the current position is a supply of 2.3 years, and this is not disputed by the appellant. The appellant also refers to the Council's failure to satisfy 75% delivery through the Housing Delivery Test and refers to a 2022 delivery figure of 51%. I have no evidence to counter the appellant's view on this matter, and find that in respect of both measures, the Council has a significant shortfall in its supply of housing. Consequently, paragraph 11d) of the Framework is engaged. This sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
29. While the development plan predates the current Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. The relevant sections of Policies CS20, CS21 and CS41, BAP7, and Saved Policy 6.8 are in broad accordance with the Framework where it requires developments that are sympathetic to local character, and which create a high standard of amenity for existing and future users. I therefore attach significant weight to the proposal's conflict with them insofar as they relate to these issues.
30. In relation to housing mix, the relevant sections of Policies BAP6, CS20, and CS21 are in general conformity with the Framework, which requires the identified housing need to include an appropriate mix of housing types for the local community, and that planning policies reflect the assessed need for the size and type of housing needed for different groups in the community. However, given the significant shortfall in housing provision in the area, I attach the conflict with these policies in respect of housing mix limited weight.
31. In addition, while the BPNP became part of the development plan less than five years before the date of the decision, the evidence indicates that its allocations do not meet the housing requirement identified across the neighbourhood plan area. As such the conflict with the BPNP, in itself, is unlikely to significantly or demonstrably outweigh the benefits of allowing the development, as set out in paragraph 14 of the Framework.
32. The proposal would provide a limited amount of short-term employment through its construction, and further social and economic benefits would result from the future occupation of a dwelling in a location with convenient access to numerous services and facilities. The dwelling would also provide a low cost and low maintenance home, which would make a limited contribution to the mix of housing options available locally and as a small site, could be developed relatively quickly. The single dwelling would also contribute to the Government's objective to significantly boost the supply of homes. Whilst

making only a small contribution to the housing supply, the delivery of a new dwelling would be a significant benefit in the context of the Council's housing land supply shortage.

33. However, the support for new housing in the development plan and the Framework is not at the expense of ensuring that developments are appropriately designed with a high standard of amenity for existing and future users, and which integrate suitably with their surroundings.
34. Accordingly, whilst I have found the contribution to housing supply to be a significant benefit alongside other modest benefits, the enduring harm to the living conditions of existing and future occupiers, and the harm to the character and appearance of the surrounding area would be of considerably greater significance. Consequently, in this case the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

35. The proposal conflicts with the development plan and the material considerations, including the provisions of the Framework, do not indicate that the appeal should be decided other than in accordance with it.

K Jones

INSPECTOR