



Appeal Decision

Site visit made on 28 August 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2024

Appeal Ref: APP/V1260/W/24/3339680

34 Clowes Avenue, Bournemouth BH6 4ES

- 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 & Ms Julia & Paul Saunt & Taylor against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref is 7-2023-12124-G.
- The development proposed is described on the application form as, "Demolish existing dwelling house and construction of replacement dwelling house (revised scheme)".

Decision

1. The appeal is dismissed.

Preliminary Matters

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, "Replace existing detached house with 2/3 storey, detached dwellinghouse with associated parking & existing vehicular access". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.
3. A supplementary drawing¹ was submitted at the appeal stage. This drawing does not substantially alter the nature of the proposed development, and I am satisfied that the parties' interests, including those of interested parties, would not be prejudiced by the drawing being considered in this appeal. Therefore, I have considered the drawing as part of this appeal.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 36 Clowes Avenue and 3, 4 and 5 Solent View, with particular regard to outlook and privacy.

Reasons

Character and appearance

5. The appeal site comprises 34 Clowes Avenue (No 34), a detached chalet bungalow which is part of a small group of generally similarly-designed dwellings located in a residential area along the waterfront of Poole Bay.

¹ Planning Appeal - supplementary drawing: South-West North-East Elevations (Drawing No. 2023-09-40)

6. According to the Residential Development: A design guide (adopted 2008) (design guide), the site falls within the 'suburban bungalow development' character area. Since the design guide was published, redevelopment and replacement of dwellings in the area has occurred (including, amongst others, 29 Clowes Avenue (No 29) which incorporates a striking contemporary design with large areas of glazing). Modern dwellings interspersed between older dwellings is now feature of the area, as is the occasional use of contemporary materials and architectural styles. This was recognised by the Inspector in appeal decision Ref APP/V1260/W/23/3314805, with the Inspector stating that the immediate area within which the site is viewed comprises a mix of differing style detached dwellings. Similarly, the Inspector in appeal decision Ref APP/V1260/W/23/3334352 referred to a lack of a uniform style in the locality.
7. No 34 is an attractive dwelling, with well-balanced proportions and a restrained use of glazing. Its scale, materials (including roof tiles and brickwork), window sizes, and recessed balcony within its rear elevation, clearly echoes that found within the group of dwellings referred to above of which it forms a part. Hence, despite No 34 not being identical to the other 2 dwellings in terms its design (including its front elevation), this trio of dwellings nonetheless appears as a cohesive group when viewed from both Clowes Avenue and Southbourne Coast Road. No 34 also appears visually congruent with the commonly traditionally-designed and modestly-sized chalet bungalows which stretch for some distance along Southbourne Coast Road to the east of the site. With the exception of No 29, these dwellings all have similar overall heights.
8. The proposed development would replace the existing dwelling on site with a dwelling of a much larger footprint, and with an increased height, when compared with the existing dwelling. Whilst certain design features would partially reduce its visual impact (including, amongst others, louvres and a pitched roof which would slope away from Southbourne Coast Road), given its overall height and scale, with accommodation over several levels and an elongated profile, it would appear from Southbourne Coast Road as a relatively large and tall dwelling, albeit not being taller than the tallest building in the street scene. The large amount of glazing proposed to the south-west elevation would emphasise the visual presence of the proposed dwelling in its context.
9. I am mindful that paragraph 135 c) of the National Planning Policy Framework (the Framework), makes reference to appropriate innovation or change, and similarly paragraph 44 of the National Design Guide mentions that well-designed places do not need to copy their surroundings in every way and that it is appropriate to introduce elements that reflect how we live today, to include innovation or change. In this regard, I note that the proposed dwelling would comprise a contemporary interpretation of a chalet style dwelling. Existing examples of similarly styled dwellings presently form part of the mix of differing styles in the locality.
10. Nevertheless, in this case, in its prominent location in the street scene along Southbourne Coast Road, the bulk, scale, and massing of the proposed dwelling would unduly contrast with the generally more modest scale of nearby dwellings. These include the other 2 dwellings within the existing trio of which the site forms a part, and the majority of the chalet bungalows to the

east of the site referred to above, which form the primary visual relationship of the site in the street scene when viewed from Southbourne Coast Road.

11. Furthermore, although the proposed gable would be similar in design to the gable forms visible at nearby dwellings on Solent View, the proposed dwelling would disrupt the existing visual harmony of the trio via its pitched roof which would be a much more prominent feature in the street scene when compared with the pitched roofs present at the other 2 dwellings in the trio.
12. Although No 34 is presently the most recessed property in the Clowes Avenue street scene, the plot is visible for a considerable distance along Clowes Avenue. When viewed from Clowes Avenue, the mix of angular shapes, differing proportions, and varying heights of the elements protruding from the north-east elevation would clash with the predominantly more restrained and ordered design of nearby dwellings. This would undermine the visual cohesiveness of the trio of dwellings referred to above. The examples of positively designed elevations given at page 49 of the design guide each contain architectural elements which exhibit a greater degree of design cohesion than is proposed. These examples therefore do not change my findings on this main issue.
13. Taking all of the above into account, the proposed development would appear out-of-keeping with its surroundings, and with an overly-dominant appearance in its context. Harm to the character and appearance of the area would result. Given the range of adverse impacts identified, the imposition of planning conditions to control the materials of the external surfaces of the proposed dwelling and the details of the boundary treatments would not adequately mitigate the harms caused.
14. Whilst the proposed development shares certain contemporary design cues with the scheme considered by the Inspector in appeal decision Ref APP/V1260/W/23/3334352, that scheme related to 4 dwellings proposed to replace 2 large detached 2-storey properties. Plans have not been provided in relation to appeal decision Ref APP/V1260/W/21/327360. As it has not been demonstrated that these appeal decisions involved schemes which are directly comparable with the proposed development, they do not change my findings on this main issue.
15. 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 Policy CS41 of the Bournemouth Local Plan: Core Strategy (adopted 2012) (Core Strategy) which provides that, amongst other things, development should, through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings, and with part i) 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.
16. The proposed development would also conflict with paragraph 135 c) of 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).

Living conditions

17. 36 Clowes Avenue (No 36) currently benefits from expansive areas of outlook towards the south and east. The existing dwelling on site is angled away from No 36 and the proposed dwelling would retain this relationship. Although the proposed development would result in a dwelling of a greater bulk and scale than presently exists along the boundary between No 36 and No 34, and a 2 metre high boundary fence would be set inside the existing brick boundary wall between the 2 plots, the occupiers of No 36 would retain the expansive areas of outlook mentioned above.
18. The rear garden area serving No 36 is presently overlooked from several viewpoints, including from an upper-floor side window at No 34 and the upper-floor balconies of 3 Solent View (No 3) and 4 Solent View (No 4). Views are also possible from Southbourne Coast Road. The proposed dwelling would introduce roof windows, but these would be set at a high level, so as to avoid direct overlooking. A planning condition could be imposed to ensure that the proposed vertical louvres to the raised terrace would be retained at all times. Views of the rear garden area at No 36 would be partially restricted from the proposed balcony with pergola by No 36 itself. Accordingly, these features would not exacerbate the existing high degree of overlooking which the users of the garden of No 36 likely already experience.
19. For the above-mentioned reasons, the proposed development would not harm the living conditions of the occupiers of No 36, with particular regard to outlook and privacy.
20. The rear garden area of 3 Solent View (No 3) is currently overlooked by the balconies at both No 34 and No 4. Further overlooking from the proposed dwelling would be largely restricted by the proposed obscure-glazed privacy screens, which could be secured via planning condition(s). The proposed first floor privacy screen would not encroach across the rear of the No 3's plot. For these reasons, the proposed development would not result in harm to the living conditions of the occupiers of No 3, with particular regard to outlook and privacy.
21. I observed that a fair proportion of the outlook from the rear garden area at No 4 is obscured by the existing side elevation of No 34. I note that the first floor level of the proposed dwelling would not extend across more than 50% of the rear boundary of No 4. The first floor element of the proposed dwelling would also be slightly set-in relative to the existing rear elevation of No 34 and the proposed dwelling would have a pitched roof as opposed to the current side gable of No 34.
22. However, whilst the ridgeline of the proposed dwelling would be set approximately 7 metres off the common boundary with No 4, the proposed dwelling as a whole would still be situated close to that boundary. Even taking account of the design choices intended to reduce the overall massing of the proposed dwelling, the proposed development would nevertheless result in a noticeably taller building with a large rectangular roof which would be higher than the existing roof of No 34.
23. The proposed dwelling would accordingly appear as being of an appreciably larger scale than the existing dwelling on site, in close proximity to that boundary. This would further compromise the modest level of outlook

currently available from that garden area. Due to its height, scale, and siting close to that boundary, the proposed dwelling would also appear overbearing in views from that area. This would undermine the appeal of that area for recreation.

24. Currently only 2 small windows on the side elevation of No 34 face the rear garden area of No 4. Views of a small part of that garden area are possible from the living room balcony at No 34 but this is at an oblique angle and from a distance. The proposed development would markedly alter this situation, by way of the introduction of a bank of 4 high level roof windows on the north-west elevation of the proposed dwelling. Although due to their placement at least 1.7 metres above floor level no direct overlooking would occur, the introduction of 4 windows in a row situated so close to the common boundary with No 4 would result in a strong perception of being overlooked. A perception of a loss of privacy for the users of the rear garden area at No 4 would occur.
25. These factors, in combination, would result in harm to the living conditions of the occupiers of No 4, with particular regard to outlook and privacy. The imposition of a planning condition for the side elevation to be rendered and painted in a light colour would not adequately mitigate these harms, as these adverse impacts would persist whatever colour is used.
26. I observed that a portion of the outlook from the rear garden area of 5 Solent View (No 5) is obscured by No 34 and No 36, although as part of the side elevation of No 34 is set-back from the common boundary between No 5 and No 34, a sense of openness exists.
27. The appellants have calculated that the first floor level of the proposed dwelling would not extend across more than 50% of the rear boundary of No 5. The ridgeline of the proposed dwelling would be set approximately 7 metres off the common boundary with No 5. Nevertheless, due to the overall height and width of the proposed dwelling, which would incorporate a large rectangular roof which would be higher than the existing roof at No 34, the proposed development would nevertheless result in a much greater mass of built form near to the common boundary than exists at present.
28. Much of this built form would be positioned at or near the central point of the common boundary and accordingly would appear as an intrusive and oppressive feature in views from No 5's garden and decking area. As such, it would undermine the pleasantness of the use of that space for sitting out and for recreation in general. The proposed boundary hedging would soften the impact of the proposed dwelling in these respects, but due to the scale of the proposed dwelling would not be likely to adequately mitigate the adverse impacts identified.
29. The proposed dwelling would contain a bank of high level glazing and an obscure-glazed fixed light window on its north-west elevation. The introduction of numerous windows at such close proximity to No 5's garden area would create an undue perception of being overlooked for the users of that garden area, even taking account of the fact that one window would be obscure-glazed, which could be secured by a planning condition. The resulting perception of a loss of privacy would compound the harm to the living conditions of the occupiers of No 5 with respect to outlook, mentioned above.

30. The design guide recommends that a distance of 12.5 metres should be maintained between the back and side of 2 or 3 storey dwellings. The proposed development would accord with this recommended distance with respect to the rear facing windows present at No 4 and No 5. Considering this, the above-mentioned attributes of the proposed dwelling would not be harmful to the outlook from those windows. The absence of harm in this respect would not however alter the harm to the living conditions of the occupiers of No 4 and No 5 identified above.
31. I therefore find that the proposed development would result in an unacceptable and harmful effect on the living conditions of the occupiers of No 4 and No 5, with particular regard to outlook and privacy. It would conflict with part 3. of Policy CS22 of the Core Strategy which provides that, amongst other things, development outside the preferred housing areas will only be permitted where it would not harm local amenity or living conditions, and with Policy CS41 of the Core Strategy which provides that, amongst other things, the Council will seek to ensure that new developments enhance the amenities neighbouring residents.
32. The proposed development would conflict with parts i) and ii) of Policy 6.8 of the Local Plan which provides that, amongst other things, development will be expected to complement and respect the amenity of neighbouring development and provide a high standard of layout and design that ensures adequate privacy for the occupants of adjacent residential properties.
33. The proposed development would also conflict 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 users.

Other Considerations and Planning Balance

34. The Council is currently unable to demonstrate the supply of housing sites as required by the Framework. Whilst paragraph 11 d) of the Framework is triggered, it does not automatically follow that the policies which are most important for determining the appeal are out-of-date in substance. Rather, the Framework provides at paragraph 225 that, amongst other things, due weight should be given to existing policies according to their degree of consistency with the Framework. In this regard, although the Local Plan dates from 2002, I have not been able to detect any particular inconsistency between Policy 6.8 of the Local Plan and the Framework.
35. As mentioned in paragraph 1.2.3 of the Core Strategy, the Core Strategy was tested against, and is consistent with, the 2012 version of the Framework. This includes Policy CS41 of the Core Strategy. The 2012 version of the Framework referred to 'not preventing or discouraging appropriate innovation' in chapter 7, which related to good design. The almost identical phrase 'not preventing or discouraging appropriate innovation or change' is present at paragraph 135 c) of the current Framework. Given these similarities between the 2012 and the current version of the Framework, and that there is no text within Policy CS41 that actively discourages appropriate innovation or change, I consider that Policy CS41 adequately reflects the current Framework.

36. It follows that the weight attached to the proposed development's conflict with the development plan policies referred to under each main issue above is not reduced.
37. The proposed dwelling would be situated in an established residential area, with adequate access to services and facilities. The proposed development would be a self-build project, which would both enhance the living conditions of the appellants' family, and provide a contemporary home for its future occupants over the long-term. Self-build projects are supported by paragraph 70 b) of the Framework. The proposed dwelling would also be designed to adapt to the ongoing effects of climate change, and a net gain for biodiversity would be secured on site.
38. The proposed development would result in unacceptable and harmful effects on the character and appearance of the area and on the living conditions of the occupiers of No 4 and No 5, in conflict with the policies cited on the main issues above. Aside from these policies, I have not been referred to any specific development plan policies which might support the proposed development. It follows that the proposed development would conflict with the development plan when considered as a whole, which is a matter that strongly indicates that planning permission should not be granted for the proposed development.
39. Paragraph 11 d) ii. of the Framework is engaged. The proposed development would not result in a net gain of residential units on site. It would not therefore contribute to alleviating the Council's housing land supply position referred to above. As a replacement dwelling, the various benefits of the proposed development as summarised above, whilst acknowledged, would be largely site-specific and would not provide significant economic, social, and environmental benefits to the local area over the long-term.
40. In contrast, the adverse impacts of the proposed development result in significant weight in opposition to it. In particular, the proposed development would not accord with paragraph 131 of the Framework which provides that, amongst other things, the creation of high quality places is fundamental to what the planning and development process should achieve.
41. I therefore find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposed development would not benefit from the presumption in favour of sustainable development, found at paragraph 11 of the Framework.
42. Overall, none of the other considerations in this case indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

43. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations including the representations of all interested parties, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR