



Appeal Decision

Site visit made on 18 February 2025

by **R Kent BA (Hons) MTP DipM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th April 2025

Appeal Ref: APP/V1260/W/24/3351188

34 West Overcliff Drive, Bournemouth BH4 8AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr M Adams (34 West Overcliff Drive Ltd) against Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2023-5666-N.
 - The development proposed is Alterations, extension and conversion of existing dwelling to form 10 apartments. Erection of a coach house with associated parking and access. Demolition of existing extension and carport.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024. I sought the parties' comments on that Framework and in its response the Council confirmed that it has 2.1 years housing land supply. A further amended version of the Framework was published in February 2025 and as the amendments were relatively limited I did not seek further comments on it from the parties. I have, however, determined the appeal on the basis of the latest version.
3. Unilateral Undertakings dated 19 December 2024 and 13 March 2025 were submitted during the appeal in which the owner of the site covenants to pay a financial contribution towards the mitigation of any adverse effect of the development on the Dorset Heathlands internationally protected sites.
4. A set of amended plans references 9562/500 rev J; 9562/501 rev F; 9562/502 rev F; 9562/503 rev E; 9562/505 rev G; 9562/ 707 rev G; 9562/508 rev F; and 9562/509 rev G were submitted by the appellant after the appeal was lodged. These made minor alterations to the bicycle store arrangements and designs and clarified the proposed replacement of a chimney on the building. They do not constitute a significant change in the proposals and did not generate the need for further consultation. I have therefore determined the appeal on the basis of the amended plans.
5. As the appeal is against the Council's failure to make a decision within the prescribed period, no formal reasons for refusal have been issued. The Council, however, has submitted a statement which sets out its principal concerns. It indicates that as planning permission had been granted for two schemes allowing alterations and extensions to No 34 West Overcliff Drive (No 34) and its

conversion to form ten¹ and eleven² apartments respectively. In this context the Council's concerns are firstly that the proposed coach house would harm the West Overcliff Drive Conservation Area; and secondly, it would have an adverse effect on No 34 as a non-designated heritage asset (NDHA).

Main Issues

6. The main issues in this case are:

- Whether the proposed coach house would preserve or enhance the character or appearance of the West Overcliff Drive Conservation Area; and
- The effect of the proposal on the significance of 34 West Overcliff Drive as a NDHA including development within its setting.

Reasons

Conservation Area (CA)

7. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA.
8. The West Overcliff Drive CA was designated in 1987. Developed primarily between 1900 and 1925, it derives its significance from the character of the Edwardian mansion houses set in large grounds together with its attractive cliff top setting, heavily wooded chimes, curved roads and generous landscaping.
9. The appeal site is located on higher ground above the junction of West Overcliff Drive and Milner Road. No 34 is a substantial detached building set back from the road behind a dense belt of trees and vegetation. Its red brick walls with decorative render, plain clay roof tiles and bay windows are generally consistent with the character and appearance of the CA as a whole.
10. The proposed coach house would be a separate detached, four bed dwelling sited between No 34 and its western boundary. It would be visible from Milner Road through the site access. As No 34 is set back in its plot parallel to the north western boundary, the coach house would be sited at a slight dog-leg between the existing building and its access to Milner Road. As a consequence, it would project forward of the south western elevation of the existing building and would reduce the space between the existing building, the boundary of the site and Milner Road. A car park would be constructed on the lawned area between No 34 and its south eastern boundary with Milner Road. This would extend across much of the frontage of the building thereby substantially reducing the lawned area between the building and the site boundary. As a result, the coach house and car parking would significantly reduce the feeling of landscaped space between buildings which forms part of the character of the CA and contributes to its significance.
11. The proposed coach house would be a much smaller dwelling than the mansion houses and other substantial buildings, including No 34, which make up the prevailing character of the CA. As a consequence, even though some of the original mansion houses in the CA have been converted to flats or otherwise

¹ 7-2023-5556-O

² 7-2022-5556-M

altered, the proposed detached dwelling would be at odds with the prevailing character of substantial detached houses standing in large grounds.

12. Whilst the front of the proposed dwelling has been designed to appear as a coach house, with ground floor windows in its south east elevation designed to appear as arched doorways, the windows in the front and rear elevations would nevertheless give it the appearance of a dwelling rather than an outbuilding. As a result, when combined with the reduction of the spacious character of the grounds in which No 34 sits, it would fail to preserve the character of the CA as a whole and would cause a moderate level of harm to its significance.
13. I am aware of other buildings within the CA and walked around the CA during my site visit taking careful account of the pattern of development within it. From what I saw, and the evidence before me, many of the other buildings within the grounds of larger buildings are garages or other ancillary buildings. The garage blocks at Nos 4, 6, 10, 12 and 14 Milner Road and at Nos 12 and 21 McKinley Road were examples of such buildings. They were not separate dwellings as is proposed in this appeal. Similarly, from the evidence before me, the garage and games room at 40 West Overcliff Drive are ancillary structures to the main dwelling. They do not project forward of the main building and do not impact on the space between the main building and the road as is the case with the appeal proposal. The extension to 3 Milner Road is also set back behind the main building and its effect on the spacious feel of the CA is reduced as a result.
14. Although reference is made to the erection of 'coach houses' being permitted at Nos 14 and 27 McKinley Road and at Nos 18 and 54-56 West Overcliff Drive I am not aware of the planning context of those schemes or the use of the respective buildings. Nevertheless, they significantly differ to the appeal proposal in their design and in their position on their respective plots. Whilst a more modern dwelling has been erected at 6a Milner Road, I am not aware of the reasons leading to it being constructed in its current form or location or the development plan policies which applied at the time. Its small size and proximity to its boundaries however are not indicative of the general character and appearance of the CA as a whole.
15. The Framework makes clear that not all elements of the CA necessarily contribute to its significance and that is the case with the existing buildings referred to above. Moreover, each proposal should be considered on its individual merits and these various other structures do not justify the further erosion of the CA which would be caused by the proposed dwelling.
16. For the reasons given, the proposed coach house and parking would not preserve or enhance the character or appearance of the CA as a whole and for the reasons given above would cause a moderate level of harm to its significance. Although the moderate level of harm caused would be less than substantial, it is nevertheless of considerable importance and weight. In accordance with paragraph 215 of the Framework it should be weighed against the public benefits of the proposal. That balancing exercise must take place in the context of the Act which sets a strong presumption against a grant of planning permission for development that would fail to preserve or enhance the character or appearance of a CA.
17. The planning permissions for the conversion of No 34 to form 10 and 11 apartments respectively include the removal of previous extensions to the building.

Building works were taking place at the time of my site visit and the extension on the north side of the building was well advanced. Whilst the proposed development would result in 11 new dwellings being provided and the removal of previous unsympathetic extensions to the building, it would not constitute an increase in the number already benefitting from planning permission on the site. Notwithstanding the size of the Council's housing land supply shortfall, the public benefit arising from the proposed new dwellings and the removal of the previous extensions would therefore be moderate and attract moderate weight in favour of the development. For the same reason, the modest public benefit to the local economy arising from the construction work attracts limited weight.

18. It is also suggested that the proposal would result in the removal of sheds, shipping containers and a caravan from the site. However, their planning status is unclear and they were not in situ when I carried out my site visit. As a consequence, their removal attracts limited weight as a heritage benefit in favour of the proposal.
19. Although the scheme provides the opportunity for further landscaping along the road boundary I have not seen any convincing evidence that this could not be achieved without the appeal proposal. This modest benefit also therefore attracts only limited weight in favour of the proposal.
20. Overall, the public benefits of the development would not provide the clear and convincing justification for the less than substantial harm to the CA, the conservation of which the Framework requires me to assign great weight.
21. The proposal would not preserve or enhance the character or appearance of the West Overcliff CA and would conflict with policy 4.4 of the Bournemouth District Wide Local Plan 2002 (BLP) and policies CS21, CS39 and CS41 of the Bournemouth Local Plan: Core Strategy 2012 (CS) in so far as they seek to protect and enhance the character and appearance of CAs; expect development to contribute positively to the character and function of the neighbourhood; and require development to respect the site and its surroundings. It would also conflict with the Framework's policies to conserve and enhance the historic environment and with the duty under the Act to pay special attention to preserving or enhancing the character or appearance of the CA.

Effect on NDHA

22. Planning Practice Guidance recognises that local planning authorities may identify NDHAs as part of the decision-making process on planning applications. The Edwardian character of No 34 arising from its substantial size, red brick walls with decorative rendered elements, chimney stacks, tiled roof and bay windows coupled with its location in spacious landscaped grounds, gives the building significance as a NDHA.
23. The building itself has been altered from its original form through previous extensions and additions. Its significance is moderate as a result. Its setting comprises the building's immediate grounds together with the adjacent stretch of West Overcliff Drive, where parts of the building can be experienced through gaps in the boundary planting, and part of Milner Road where it is experienced through views from the site access.

24. The proposed coach house, whilst designed to appear as an outbuilding, would be a new, separate dwelling sitting between the NDHA and the western boundary. As I have already found in relation to the CA, it would have the effect of reducing the space between the NDHA and Milner Road. Together with the proposed car parking spaces on the grassed area between the south eastern facade of the building and Milner Road, this would result in a moderate level of harm to the significance of the building as a NDHA through the visual and physical erosion of its spacious landscaped grounds.
25. The containers and caravan I referred to above may have had a negative effect on the setting of the building but do not justify the harm to the setting which would be caused by the erection of a permanent building and the permanent loss of much of the grassed area.
26. The proposed extensions and alterations to No 34 to form the 10 apartments include the removal of some of the previous additions and would largely retain the character and appearance of the building. As a result, the works to the building itself would not have a negative effect on its significance as a NDHA.
27. The Framework requires that a balanced judgement is required when weighing proposals that affect NDHAs. I have previously identified that the moderate benefit of the additional housing and removal of previous extensions attracts moderate weight in favour of the proposal. The modest benefits of the related construction jobs, the opportunity for further landscaping and the removal of the caravan and other objects on the south western side of the site attract limited weight in favour of the proposal. Those benefits do not outweigh the moderate level of harm to the significance of the NDHA which would be caused by the development within its setting.
28. For the reasons given, the proposal would therefore harm the significance of 34 West Overcliff Drive as a NDHA as a result of development within its setting. This would conflict with policies CS21 and CS41 of the CS in so far as they expect development to contribute positively to the character and function of the neighbourhood and require development to respect the site and its surroundings. For the same reasons, it would also conflict with the policies in the Framework to conserve and enhance the historic environment.

Other Matters

29. The site is outside 400m but within 5km of the Dorset Heathlands Special Protection Area (SPA), the Dorset Heathlands Ramsar site, and the Dorset Heathlands Special Area of Conservation (SAC). Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development. Therefore, given my conclusions on the main issues, it is not necessary for me to consider this matter in any further detail.

Planning balance and conclusion

30. The Council can only demonstrate 2.1 years supply of deliverable housing sites which is well below the minimum level required. Consequently, with reference to paragraph 11 d) of the Framework, consideration of the presumption in favour of sustainable development is required.

31. Notwithstanding the Council's housing land supply shortfall, applying footnote 7 to paragraph 11d) i. of the Framework, the conflict with the Framework's policies for conserving and enhancing the historic environment provide a strong reason for dismissing the appeal. As a consequence, paragraph 11 d) ii. of the Framework is not engaged and the appeal should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a key material consideration and conflict with its policies carries substantial weight against the proposal.
32. The proposal would cause harm to the significance of the CA and fail to preserve its character or appearance. The harm caused to the CA would be less than substantial. A moderate level of harm would also be caused to the significance of No 34 as a NDHA as a result of development within its setting. As a consequence, the proposal conflicts with policies 4.4 of the BLP and policies CS21, CS39 and CS41 of the CS.
33. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their consistency with the Framework. The Framework recognises the desirability of new development making a positive contribution to local character and distinctiveness and has policies for conserving and enhancing the historic environment. Hence BLP policy 4.4 and CS policies CS39 and CS41 are consistent with the Framework. As a consequence, the conflict with BLP policy 4.4 and CS policies CS39 and CS41 should be given substantial weight in this appeal. Policy CS21 sets the strategic approach to housing distribution across Bournemouth. In view of the extent of the shortfall in the Council's housing land supply, the conflict with Policy CS21 therefore carries limited weight. Nevertheless, the harm that I have identified to the CA is sufficient to cause conflict with the development plan when read as a whole.
34. I have referred to the benefits arising from the proposal when undertaking the heritage balance in the first main issue. The proposal conflicts with the development plan and the material considerations including the economic, environmental and heritage benefits stemming from the proposal do not indicate that the appeal should be decided other than in accordance with it. The presumption in favour of sustainable development in the Framework does not apply in this appeal.
35. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR