



Appeal Decision

Site visit made on 12 March 2025

by **L J O'Brien BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th April 2025

Appeal Ref: APP/V1260/W/24/3351750

1 Avalon, Poole, Bournemouth Christchurch Poole, BH14 8HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Craig Walker against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00327/F.
 - The development proposed is full demolition of the existing dwelling and erection of replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes and no parties have been prejudiced as a result.

Main Issues

3. The main issues in this appeal are:
 - the effect of the design of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the character and appearance of the area with particular regard to trees; and
 - the effect of the proposal on protected species; and
 - the effect of the proposal on the living conditions of neighbouring residents with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site is a considerably sized, sloping, corner plot of land located on the north side of Avalon, close to the junction with Sandbanks Road. The site is currently occupied by a single storey detached dwelling with a part split-level ground floor and pitched roof. The site also accommodates associated structures including a car port, garage and storage sheds. Due to the set-back from the road,

the size of the plot and the number of mature trees within it a strong sense of spaciousness characterises the site.

5. Avalon slopes gently upwards from the appeal site and the neighbouring property at No. 2 Avalon sits at a higher level than the property at No. 1. The area is broadly characterised by detached dwellings set back from the road behind open, unenclosed front garden areas. The front garden areas and the gaps between properties create a sense of spaciousness. Mature trees and vegetation in the area create a verdant character and appearance.
6. Though buildings along Avalon retain a traditional appearance, properties within the area do have a degree of variety. Opposite the appeal site are blocks of flats whilst properties further along the road are a mixture of single storey, traditionally constructed, bungalows and two-storey dwellings. Contemporary features and materials such as expanses of glass balustrade are notable along the road and form part of the varied street scene. When considering the wider area the variety of properties further increases.
7. The proposal is for the demolition of the existing dwelling and the erection of a replacement dwelling. The proposed dwelling would be of a contemporary design with a flat roof and large expanses of glazing. The dwelling would be constructed of natural stone cladding/facade on the ground floor levels, with white render for the upper levels. Some areas of vertical timber cladding are also proposed.
8. The proposed dwelling would not directly reflect the building which is currently in situ on site or the more traditional hipped roof forms of other properties in the immediate vicinity of the appeal site. However, the proposed dwelling would have a number of key characteristics which would be consistent with other buildings in the area. The white render above a more natural lower layer, for example, would reflect that which typifies the external appearance of many other properties nearby.
9. The proposed dwelling, though larger than the existing dwelling, would retain the set-back from the road and the openness around the built form and would be of a similar height to the neighbouring dwelling. The massing and form of the proposed dwelling, particularly the staggered front elevation, would reduce the apparent bulk of the dwelling and would also reflect the form of other buildings within the street scene.
10. Furthermore, the corner location of the appeal site and the proximity to the blocks of flats is such that the site presents an opportunity for a building which is of a different appearance without breaking up or interrupting the cohesion found elsewhere along the road. The use of a green roof would be sympathetic to the verdant and green character of the area.
11. For these reasons, I consider that the proposed dwelling would assimilate well within its context and would not appear visually discordant or incongruous. As such, in this respect, the proposal would comply with Policy PP27 of the Poole Local Plan, adopted 2018 (LP) which, amongst other things requires a good standard of design which reflects or enhances the local patterns of development.
12. The development would also meet the expectations of The National Planning Policy Framework (the Framework) which promotes high standards of design and

states that developments should be visually attractive and sympathetic to the character of the area.

Trees

13. A number of protected trees are in situ at the appeal site. These trees contribute positively to the verdant and green character and appearance of the site and the wider area as a whole. The evidence before me, which includes an Arboricultural Report¹, is clear that, though some pruning would be required, no trees are to be felled as part of the proposal. The Arboricultural Report also sets out that the proposed development could be constructed in such a way so as to protect the trees during the construction of the proposed development.
14. However, the proposal includes a large area of external decking which would largely occupy a space directly underneath the tree canopy. Decked areas such as this are generally used for sitting out and making use of the garden space serving the property. In this instance the decked area would be in significant shade from the trees and debris from above would be likely to fall and accumulate within this area. As such, I consider that, in order to facilitate the effective use of this space, this arrangement would be highly likely to lead to an increased pressure to fell or prune trees.
15. The proposed dwelling would be larger than the current dwelling on site and would be somewhat closer to the trees. Furthermore, the proposed ground floor layout indicates that a large open plan living room and kitchen/diner with a significant expanse of glazing would be sited in extremely close proximity to the trees. The principal light reaching this primary living accommodation would be from areas of glazing close to the trees. As such, it is not unreasonable to believe that levels of light reaching these areas of the property could be compromised by the trees to such an extent as to lead to pressure to further prune or fell the trees.
16. The evidence before me does not persuade me that it would be possible for the proposed dwelling to achieve a harmonious long term relationship between the dwelling and the protected trees. I consider that, due to the proximity of the building and the specific layout of the accommodation on site, the trees would cause significant shading, dominance and debris problems to the new property leading to future pressure for pruning or felling of the trees which would cause significant harm to the character and appearance of the appeal site and the wider area.
17. I note that the existing dwelling is close to the trees already. However, the design of the proposed dwelling is notably different from the current arrangements on site whereby the living accommodation is located on the opposite side of the dwelling, furthest from the trees.
18. For the reasons set out above the proposed scheme would be harmful to the long-term health and retention of the high quality protected trees and, as a consequence, would cause harm to the character and appearance of the area. As such, the proposed scheme would fail to comply with LP Policy PP27 insofar as it would not respond well to the natural features of the site and the area.

¹ Arboricultural Report by Mark Hinsley Arboricultural Consultants Ltd. Dated 18 July 2023.

Protected species

19. The appeal is accompanied by a Preliminary Ecological Appraisal and Roost Assessment (PEA)² which sets out that the site contains multiple small, medium and large trees with open areas containing ornamental planting which provide suitable foraging habitat for bats. The PEA states that the site is considered to have high value for foraging and commuting bats. Though the PEA considers that the buildings on site offer low or negligible value for roosting bats, it further states that the demolition of the building could result in destruction of any bat roosts present and could cause disturbance, death or injury to bats. Consequently, the PEA recommends one bat emergence survey during the active bat season (optimal May to August, suboptimal September) to confirm presence or likely absence of a bat roost in the building. Following this survey a view could be taken on whether or not further surveys or mitigation is required in order to safeguard the protected species.
20. The evidence before me indicates that, due to the timing of the application and subsequent appeal, a bat emergence survey has not yet been completed. The appellant indicates that a survey could be required through the use of a suitably worded planning condition. However, Government Circular 06/2005 Biodiversity and Geological Conservation states that “It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances”. In this instance I have not been provided with satisfactory evidence to indicate that such exceptional circumstances apply and the use of a planning condition would not be appropriate.
21. In the absence of adequate evidence to the contrary, and taking a precautionary approach, I consider that the proposal would result in harm to bats which are a European Protected Species. Accordingly, the proposed development would conflict with Policy PP33 of the LP. Amongst other things, this policy states that any sites containing species and habitats of local importance must demonstrate how any features of nature conservation and biodiversity interest are to be protected and managed to prevent any adverse impact, incorporate measures to avoid, reduce or mitigate disturbance of sensitive wildlife habitats throughout the lifetime of the development and seek opportunities to enhance biodiversity through the restoration, improvement or creation of habitats and/or ecological networks.

Living conditions

22. The orientation of the proposed dwelling within the site would be altered slightly from the current arrangements. The proposed dwelling would also have an increased height. Consequently, the rear windows and part of the proposed terrace would look onto the rear garden area of the neighbouring property at No 7.
23. The proposed windows would be a minimum of around 10.3m from the boundary with No 7 and would, in my view, be sufficiently distant from the neighbouring property so as to avoid any undue harm to its occupants.

² Preliminary Ecological Appraisal & Roost Assessment by Arbtech Consulting Ltd date 5 July 2024

24. Additionally, the existing dense vegetative screening is expected to remain. Though I have set out concerns around the longevity of some of the protected trees on site for a number of reasons, the trees in this location would not be likely to cause significant issues in respect of the light levels reaching the proposed dwelling and future pressure to significantly prune or fell would be minimal. In any event, due to the separation distance, overlooking would not be possible above and beyond that which is common in residential environments areas such as this and the proposal would not cause unacceptable harm in this regard.
25. Consequently, the proposed replacement dwelling would not cause harm to the living conditions of neighbouring residents with particular regard to privacy. The proposal would, therefore, accord with the aims of LP Policy PP27 which expects development proposals to be compatible with surrounding uses and not result in a harmful impact upon amenity for both local residents and future occupiers in respect of privacy.
26. The proposal would also conform with the National Planning Policy Framework which states that developments should create a high standard of amenity for existing and future users.

Other Matters

27. I accept that the proposed development would provide an energy efficient, contemporary family home in a sustainable location. I also acknowledge the economic benefits of engaging local professionals, trades and suppliers and the ongoing benefit of the occupiers of the proposed dwelling utilising local facilities. These benefits are, however, limited by the small scale of the proposal and must be considered in that context. Accordingly, I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached and set out above.
28. The application site is within the vicinity (within 5 km and beyond 400m) of Dorset Heathlands which is identified as a European Protected Site for the special interest of its heathland habitats and associated plant and animal species. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) 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. Had I been minded to allow the appeal, it would have been necessary for me to undertake an AA and give further consideration to this matter. However, as I am dismissing the appeal for other reasons, this has not been necessary.

Conclusion

29. For the reasons set out above, the proposal is contrary to the development plan. There are no material considerations that indicate that permission should be granted. Therefore, taking all other matters raised into account, the appeal is dismissed.

L J O'Brien

INSPECTOR