



Appeal Decisions

Inquiry held on 10 & 11 March 2009

Site visit made on 12 March 2009

by **Simon Hand MA**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
2 April 2009

Appeal A - Ref: APP/Q1255/A/08/2083728

88 Panorama Road, Sandbanks, Poole, Dorset, BH17 7RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Stanborough Developments against the decision of Poole Council.
- The application Ref 08/10984/013/F, dated 6 May 2008, was refused by notice dated 1 July 2008.
- The development proposed is to demolish existing dwelling at No 88 and erect replacement dwelling with summerhouse.

Appeal B - Ref: APP/Q1255/A/08/2083720

88 Panorama Road, Sandbanks, Poole, Dorset, BH17 7RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Stanborough Developments against the decision of Poole Council.
- The application Ref 08/10984/017/F, dated 28 April 2008, was refused by notice dated 24 July 2008.
- The development proposed is to demolish existing dwelling at No 88 and erect replacement dwelling with summerhouse.

Appeal C - Ref: APP/Q1255/A/08/2083723

88 Panorama Road, Sandbanks, Poole, Dorset, BH17 7RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Stanborough Developments against the decision of Poole Council.
- The application Ref 08/10984/018/F, dated 28 April 2008, was refused by notice dated 24 July 2008.
- The development proposed is to demolish existing dwelling at No 88 and erect replacement dwelling with summerhouse.

Appeal D - Ref: APP/Q1255/E/08/2083740

88 Panorama Road, Sandbanks, Poole, Dorset, BH13 7RG

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
 - The appeal is made by Stanborough Developments against the decision of Poole Council.
 - The application Ref 08/10984/010/U, dated 6 May 2008, was refused by notice dated 1 July 2008.
 - The demolition proposed is the existing dwelling at 88 Panorama Road.
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Decisions

Appeal A

1. I dismiss the appeal.

Appeal B

2. I allow the appeal, and grant planning permission to demolish the existing dwelling at No 88 and erect a replacement dwelling with summerhouse at 88 Panorama Road, Sandbanks, Poole, Dorset, BH13 7RG in accordance with the terms of the application, Ref 08/10984/017/F, dated 28 April 2008, and the plans submitted with it (except that 03 Rev A Site plan should be replaced by 03 Rev B Site plan), subject to the conditions in Annex A below.

Appeal C

3. I allow the appeal, and grant planning permission to demolish the existing dwelling at No 88 and erect a replacement dwelling with summerhouse at 88 Panorama Road, Sandbanks, Poole, Dorset, BH13 7RG in accordance with the terms of the application, Ref 08/10984/018/F, dated 28 April 2008, and the plans submitted with it (except that 12 Rev A Site plan should be replaced by 12 Rev B Site plan), subject to the conditions in Annex A below.

Appeal D

4. I allow the appeal, and grant conservation area consent for the demolition of the existing dwelling at 88 Panorama Road, Sandbanks, Poole, Dorset, BH13 7RG in accordance with the terms of the application Ref 08/10984/010/U, dated 6 May 2008 and the plans submitted with it except that 0562-22 Site Plan should be replaced by 0562-22 rev A Site Plan, subject to the conditions in Annex A below.

Main issues

5. Whether the existing house makes a positive contribution to the character or appearance of the Sandbanks Conservation Area. Whether the proposed replacements preserve or enhance the character or appearance of the Conservation Area. Whether the proposed replacements harm the amenities of neighbours by way of overlooking.

Procedural Matters

6. Prior to the Inquiry opening the appellants introduced revised plans to overcome the Council's concerns over tree loss. These plans showed only a slight rerouting of the access drive which would serve both No 88 and No 90 and as a result fewer trees would be removed. I consider these changes are minor and that no parties would be prejudiced by my considering them as part of the appeal.
7. Also prior to the Inquiry the Council granted planning permission for the demolition and replacement of No 90, and I have taken this into account in reaching my decisions. There was a previous appeal on the site in 2007 and the Inspector's decision was relied on heavily by both parties.

8. The design of the house proposed in Appeal A is of the 'International' style, a distinctive flat roofed and largely glass fronted proposal. Appeal B is a more traditional design with a large curved two storey front projection with a first floor balcony and Appeal C is for a traditional design with a projecting square faced front gable.
9. It was common ground to the parties that if I found in favour of the appellants on any or all of appeals A, B and C, there would be no sustainable objection to also allowing appeal D.

Reasons

The existing house

10. Paragraph 4.27 of Planning Policy Guidance 15 *Planning and the Historic Environment* sets, in effect, two tests. Firstly that there is a general presumption in favour of retaining buildings that make a positive contribution to the character or appearance of Conservation Areas. But secondly "in less clear-cut cases – for instance where a building makes little or no such contribution..." the quality of the proposed replacement will be important. Thus determining the quality of No 88 is the starting point for the appeal.
11. The Inspector in the 2007 appeal concluded that No 88 made a "significant contribution to the local scene" but went on to say that it had not been statutorily or locally listed nor identified in any Conservation Area appraisal as a key building. She then applied the second test from paragraph 4.27 of PPG15 and considered the quality of the proposed replacement. Thus it is clear to me she considered that, in PPG15 terms, this was a less clear-cut case.
12. Since that decision was issued the Council have adopted the Sandbanks Conservation Area Character Appraisal and Management Plan (SCACAMP). Although it is common ground that there is no uniform character to the design and spacing of buildings in the Conservation Area the SCACAMP identifies various groups, one of which is "Group 3: Panorama Road Edwardian Period". This includes No 88 which it is recommended is added to the list of buildings of local importance. This process of local listing is still, however, in its early stages. The SCACAMP notes that No 88 is designed in the Arts and Crafts tradition, survives without major or unattractive alterations and, along with its neighbour No 84, (there being no No 86) is a rare survivor of the Edwardian seaside architecture developed on Sandbanks before 1914. All these assertions, along with the identification of Group 3 as Edwardian were vigorously contested by the appellant.
13. With the benefit of this detailed and forensic analysis, it seems to me the Council have been somewhat over-enthusiastic in their description of this group of houses. Because of their position at the back of their plots and the screening effect of the trees in the front gardens, the houses are best seen individually and as a group from the harbour. They certainly present a striking ensemble, but in my view this is mainly because of their size, the variety of building styles and the way they have clearly been designed or altered to take advantage of the harbour views. According to the SCACAMP, of the 7 houses in the group Nos 90 and 96 are modern and Nos 92 and 94 have been substantially altered. No 84 looks like an Edwardian seaside villa while No 98 is more strongly reminiscent of the Arts and Crafts style and No 88 is more like a

suburban house. This suggests to me that this is not a significant grouping of Edwardian Villas and in that sense the replacement of No 88 would not undermine the quality of the group as a whole.

14. No 88 is a rare survivor of late Edwardian architecture in this part of Sandbanks, but that does not mean it has any intrinsic quality. It clearly is not an Arts and Crafts house in the specific sense of being a typical product of that architectural movement, but it does contain some elements of the Arts and Crafts aesthetic. In particular the two chimney stacks in the roof and the curving front and side windows to the drawing room and master bedroom above. By contrast the half-timbered front gable, first floor balconies, one with a loggia below, and the windows that cut through the eaves line all help lend the house a quirky and interesting appearance, but do not suggest to me any particular tradition. Some elements such as the French windows, dormers and the flank wall chimney stack are positively unattractive.
15. The checklist in Appendix 2 of *Guidance on conservation area appraisals* by English Heritage was much referred to. This lists questions to be asked when considering the contribution made by an unlisted building in a Conservation Area. The final paragraph notes that any of the characteristics described in the checklist could lead to a conclusion that the building made a positive contribution to the Conservation Area "provided that its historic form and values have not been seriously eroded by unsympathetic alteration". The appellants were keen to demonstrate that there had been significant changes to the external appearance and so the house failed this final test. In my view the external appearance clearly has changed, and not for the better, but even if the house remained substantially as it was first constructed it does not necessarily follow that it makes a positive contribution to the Conservation Area. I take the English Heritage checklist to be merely helpful guidance and I do not think that No 88 scores very highly on any of the 'questions that might be asked' in Appendix 2. I also do not find the short lived association as a holiday home for Sir John Cadman or the fact that it was built by local builders of no particular fame to be persuasive of its historic value.
16. Taking this all together I find that No 88 is attractive, but certainly not exceptionally so. It has some identifiable Arts and Crafts influences but does not betray a coherent style and has no great architectural merit. As I note above, it is more reminiscent of a suburban house than a seaside villa. It has no important local connections and is not an essential element of a larger group. I do not think these conclusions are outweighed by the Council's intention to locally list the property as this is at an early stage and for the same reason I give little weight to policy BE17 of the Local plan as this refers to buildings that have already been locally listed. I conclude therefore that No 88 does not make a positive contribution to the character or appearance of the Conservation Area and its demolition would not be contrary to policies BE16 and BE17 of the Borough of Poole Local Plan First Alteration (2004).

The proposed replacement houses

17. The previous Inspector described a main characteristic of the Conservation Area, especially when seen from the harbour, to be the large, generously spaced elegant houses and their sylvan setting, I would agree with this and it was not disputed at the Inquiry. In the following analysis I have used the

group of houses that face the harbour shown in the various montages provided by the appellant to compare with the appeal proposals. This group is effectively all of Group 3 as defined in the SCACAMP and two houses further to the east, and provides the context of the proposals when seen from the harbour.

18. All three proposals would be slightly larger than the existing No 88, not least because they will have to be built roughly 1.3m above the ground level of No 88 to satisfy the Environment Agency. However, none of them would appear over-large or dominant compared to the other houses in the group, several of which are themselves substantial buildings. Because of the increased bulk of the proposals slightly less of the tree screen behind would be seen than at present, but not significantly so, and certainly the framing effect of the trees and the general sylvan setting would remain unchanged.
19. Although there is no consistent style to the houses of the harbour front group, there are a number of broad characteristics that are predominant among the group; pitched roofs, tall chimneys, extensive use of French windows and balconies and generally, articulated harbour frontages. The replacement house at No 90 picks up and responds to these trends. In a similar fashion so would the designs in appeals B & C. I have already concluded that there is no strong Edwardian architectural style to this group and both proposals B & C would fit comfortably into their surroundings.
20. The design of Appeal A is another matter. This is in the 'international style', and is uncompromisingly modern, with a flat roof, curved front façade almost entirely sheathed in glass, and with a curved turret that provides a viewing gallery. There are a considerable number of houses of this style around Poole, and several overlooking the harbour close to the site but none are in the group I have identified. I accept that diversity of design can be exciting and enhancing, but in this specific location this design would appear to be wholly out of context. It would generally be read with the group of houses that share few if any design characteristics with it and would draw attention to itself in a way that none of the other individual houses do and so upset what cohesiveness the group exhibits.
21. I thus conclude that Appeals B & C would preserve the character and appearance of the Conservation Area and would not be contrary to policies BE16 and NE23 of the Local Plan and policies PCS5 and PCS23 of the Poole Core Strategy (2009), but that Appeal A would harm the character or appearance of the Conservation Area and would be contrary to the same policies and for this reason alone Appeal A should fail.

Overlooking

22. Although all the houses are open to the harbour I do not consider that there would be any sense of being overlooked from the sea. Few if any boats would sail closer than the end of the jetty in front of No 90, and from there, at sea level, views into the gardens would be distant and partial. Larger boats or ships would be even further away.
23. The majority of houses on the harbour frontage have taken advantage of the superb views with balconies at first floor level. It was clear from my site visit that overlooking of neighbours from many of these balconies was possible, and

indeed there were clear views into the front gardens of both Nos 84 and 90 from the balconies and windows of the existing No 88. Both appeals B & C have first floor balconies that would provide opportunities to overlook the front of both neighbours' houses. The proposed balconies would be higher than the balconies on the existing house as the proposed houses are raised up. However, in both appeals the balcony is central in the façade and so further from the neighbours on each side than the existing balconies. Most of the flank windows proposed are obscure glazed, whereas few if any on No 88 are. On balance therefore I consider that any overlooking from the balconies would be no worse than at present and possibly represent an improvement, whilst overlooking from flank windows would be significantly reduced.

24. I recognize that it is not necessarily acceptable to simply replicate an existing poor situation when the opportunity arises for improvement. Obscure glazed screening could be provided to the sides of the balconies, but this would not prevent the possibility of all overlooking and in this location a degree of mutual overlooking is almost inevitable given the desire to maximise access to the views across the harbour. I have no evidence that the current situation for any of the houses causes problems and thus, given the appeal proposals will effect a slight improvement, I do not think any change to the balconies is required.
25. At ground floor level both proposals have terraces that would be raised up due to Environment Agency requirements, although it was demonstrated that it was typical for neighbouring houses in the group to be at different levels. Both proposals would be close to the boundary with No 84 where screening from the existing garage and outbuilding could be supplemented by new boundary treatments to prevent overlooking. Both proposals would be set away from the new boundary with No 90, and both terraces are designed so that the main area of use is adjacent to No 84. Although there would be some area of raised terrace close to No 90, overlooking could be ameliorated by the proposed boundary treatments and would be no greater than between a number of other houses in the group. I conclude that there would not be any material harm from overlooking at either ground or first floor level from either appeal B or C which are thus not contrary to policy H4(v) of the local plan. I have not considered appeal A as I have already concluded that appeal should fail.

Other matters

26. The loss of trees had originally been an issue between the parties. At the Inquiry the issue was narrowed to cover only the pruning of five sub branches of the lowest main branch of tree T71. This had been a reason for refusal for only Appeal A, but it was demonstrated that the same amount of pruning would be required whichever appeal proposal was built. The Council's arboriculturalist confirmed that the worse case scenario was that the main branch would become infected and would have to go. Dense tree cover exists at present, and although 21 trees would be removed either for sound arboricultural reasons or to facilitate the development of No 90, there would be 21 replacements of such a size and quality as to make an immediate impact. No trees would be lost as a result of the redevelopment of No 88. Given this background I do not consider that even the loss of the whole branch would be significant and so the proposals are not contrary to policies NE28 of the local plan or PCS23 of the Core Strategy.

Conclusions

27. The existing house at No 88 does not make a positive contribution to the character or appearance of the Conservation Area and so its demolition would be acceptable if the proposed replacement preserved or enhanced the character or appearance of the Conservation Area. The design of Appeal A would be incongruous and so fail to preserve or enhance the character or appearance of the Conservation Area and that appeal should be dismissed. However the design of Appeals B and C would be acceptable and so in those cases the character or appearance of the Conservation Area would be preserved. Furthermore neither appeal B or C would cause material harm by way of overlooking of neighbours nor loss of trees, and so should be allowed.

Conditions

28. Conditions are required for appeal D to ensure that demolition is not undertaken before the redevelopment is ready to go ahead and to protect the trees on site during the demolition works. Conditions are required for Appeals B & C for the protection and replacement of trees which are an important component of the Conservation Area. Conditions concerning landscaping, materials, certain details of the structure of the proposed houses and restrictions to the GPDO to prevent extensions to the houses and garden buildings are needed to protect the character and appearance of the area. Details of boundary treatments are required and certain windows need to be obscure glazed to protect neighbours' privacy.

Simon Hand

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David Park QC	Instructed by T M Martin, Poole BC
He called	
Hazel Brushett ONC	Conservation Officer, Borough of Poole
Building Cons, BSc	
(Hons)Building Cons, PG	
Dip UD, IHBC	
Russell Fisher Cert Arb	Senior Arboricultural Officer, Borough of Poole
(RFS)	
Clare Dick BSc (Hons),	Development Control Officer, Borough of Poole
PG Dip TP MRTPI	

FOR THE APPELLANT:

Michael Druce QC	2-3 Grays Inn Square, London, WC1R 5JH
He called	
Simon Jones Dip Arb	Simon Jones Associates, 17 Cross Road,
(RFS), F. Arbor. A. Arb	Tadworth. Surrey, KT20 5ST
Assoc.	
David Jobbins BSc	Associate Director Planning, Savills, Wessex
(Hons), MRTPI	House, Priors Walk, East Borough, Wimborne,
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Michael Heaton, MIFA,	Eversfield House, Station Road, Warminster,
IHBC	BA12 9BB

INTERESTED PERSONS:

Alison Sepping	The Sandbanks Association, 4 Seacombe Road, Poole, Dorset, BH13 7RJ
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DOCUMENTS

- 1 Notification of Appeal
- 2 Agreed list of plans
- 3 Mr Briggs Proof (to previous appeal)
- 4 Mr Park's opening comments
- 5 Building footprint and glazing percentages
- 6 Statement of Common Ground on Arboricultural Issues
- 7 E-Mail from Russ Fisher to Clare Dick about trees
- 8 Plans of new house granted planning permission at No 102
- 9 List of conditions
- 10 Mr Druce's closing submissions

Annex A – Conditions

Appeal D - Ref: APP/Q1255/E/08/2083740

- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
- 2) The works of demolition hereby authorised shall not be carried out before a contract for the carrying out of the works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides.
- 3) The works of demolition hereby authorised shall not be carried out until details of measures for the protection of trees on the site have been agreed in writing with the Local Planning Authority. The works of demolition shall thereafter be carried out in complete accordance with these details.

Appeal B - Ref: APP/Q1255/A/08/2083720

Appeal C - Ref: APP/Q1255/A/08/2083723

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Prior to development commencing an arboricultural method statement prepared by an arboricultural consultant holding a nationally recognised arboricultural qualification providing comprehensive details of construction works in relation to trees shall be submitted to, and approved in writing by the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following: -
 - a) a specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2005 and a plan indicating the alignment of the protective fencing;
 - b) a specification for scaffolding and ground protection within tree protection zones in accordance with BS5837;
 - c) a schedule of works conforming to BS3998;
 - d) details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
 - e) plans and particulars showing the siting of the services and piping infrastructure;
 - f) a full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway, ramp, parking areas and retaining walls including details of the no-dig specification to be employed within the root protection areas of all trees;

- g) a pre-commencement site meeting shall be held and attended by the developers arboricultural consultant, designated site foreman and a representative from the Local Planning Authority to discuss details of the working procedures. Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of monitoring and supervisory visits and procedure for notifying the Local Planning Authority of the findings of the monitoring and supervisory visits; and
 - h) details of all other activities which have implications for trees on or adjacent to the site.
- 3) No trenches or pipe runs for services or drains shall be sited within the tree protection zone in accordance with BS5837 of any existing tree or group of trees to be retained on the site or adjoining land, and no ground levels shall be altered within this same radius.
 - 4) Twenty one trees, of the size, species and in the location as shown on plan drawn by Simon Jones Associates Ltd. Drwg ref. *Appeal B – SJ TPP 18 & Appeal C SJ TPP 19*, shall be planted in accordance with BS3936 (Parts 1 and 4), BS4043 and BS4428 in the earliest planting season following implementation of this permission. The trees shall thereafter be maintained for a period of five years including the replacement of any trees, or any trees planted in replacement for it, which die, are removed or become damaged or diseased within this period with trees of a similar size and of the same species, unless the Local Planning Authority gives written consent to any variation. The Local Planning Authority shall be notified in writing when the trees have been planted so that compliance with the condition can be confirmed.
 - 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping (including understorey planting), which shall include provisions for the retention and protection of existing trees and other site features and any changes in levels.
 - 6) All planting, seeding or turfing comprised in the approved details of landscaping (condition 5) shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
 - 7) Before the development permitted is hereby commenced, proposals for the hard landscaping of the site, including full details of surfacing materials and colours, railing, fencing and any other boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to the first occupation of the development hereby approved and retained thereafter.

- 8) Both in the first instance and on all subsequent occasions, the windows shown to be obscure glazed on the approved plans for both appeals B and C shall be glazed with obscure glass in a form sufficient to prevent external views and shall either be fixed light or hung in such a way as to prevent the effect of obscure glazing being negated by reason of opening.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no structures or alterations permitted by classes A, B, C or E of Part 1 of Schedule 2 of the 1995 Order) shall be erected or made within the curtilage of the dwelling hereby permitted.
- 10) Before the development permitted is hereby commenced, detailed drawings at a scale of 1:10/1:20 showing plans, elevations and sections, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include: -
- At Scale 1:10 details showing sills in relation to the opening in which they are set and the relationship of the window to the walls.
 - At Scale 1:20 sections through elevations of doors and meter ducting and flues.
- The works shall be carried out in strict accordance with the approved details.
- 11) Details and samples of all external facing and roofing materials including: -
- any roof tiles or slates, specimen panels for render, brickwork or cladding colour and finish, windows and glazed screens, any stone arches over windows and any stone surrounds for windows and doors, any timber framing to balconies and garage doors, rainwater goods, any brick piers and any balcony balustrades;
- to be used shall be submitted to and approved in writing by the Local Planning Authority before any on-site works commence. The development shall thereafter be carried out in complete accordance with the approved details.