

Case Name: *Faherty, R (On the Application Of) v Bournemouth, Christchurch and Poole Council* [2023] EWHC 1395 (Admin) (09 June 2023)

Full case: [Click Here](#)

Commentary: This was a judicial review of the defendant council's grant of planning permission for a first floor and extensions to be added to an existing bungalow situated adjacent to a conservation area in Christchurch.

Prior to the grant of permission, the council's conservation officer had objected to the initial consultation on the proposals. She noted the absence of a heritage statement, indicating that little consideration had been given to the context of the site. She found that the bulk of the proposed development was out of keeping with the street scene and so had a slight adverse impact on the adjacent conservation area.

The applicant subsequently provided a heritage statement and amended the proposed scheme, although not in a way that reduced its bulk. There was a further round of consultation, in response to which the conservation officer expressed the same concerns about bulk.

The scheme went before the council's planning committee. The officer's report noted the conservation officer's objection but disagreed with it and recommended the grant of permission. It noted that the design of the scheme was in keeping with that of nearby properties also outside the conservation area, some of which had already been enlarged in the same way as was proposed in this case. Taking that into consideration, the officer's report concluded that the proposals would not result in any significant impacts on the character and appearance of the adjoining conservation area. Permission was granted accordingly.

Three issues were considered by the court as follows:

- i) Whether the members who granted the permission failed to consider the advice of the conservation officer due to deficiencies in the officer's report.

The claimant argued that the officer's report had failed to set out the findings of the conservation officer in sufficient detail, thereby misleading the members. The judge rejected this, finding that there was sufficient detail in the report, noting that the planning committee can be expected to have the intelligence and understanding to know what is being said. On a fair reading, the officer's report was not misleading.

- ii) Whether the planning officer had failed to give reasons for disagreeing with the conservation officer.

The claimant argued that the officer's report failed to set out adequately why approval was being recommended despite the conservation officer's objection. Again, the judge rejected this, holding that the officer was entitled to come to a different conclusion to the conservation officer and the report explained the reasoning on the point adequately.

- iii) Whether the officer's report departed from policy in assessing impact on the conservation area.

The policy in question was requirement in the National Planning Policy Framework to identify harm and to give it greater weight the greater the harm. The judge noted that although the conservation officer identified harm, the planning officer concluded that there was no harm. The planning officer was entitled to reach that conclusion in exercise of his planning judgment, and references to the relevant policy in his report demonstrated that he had understood and correctly applied the policy framework. As such, this ground of challenge also failed.

With all three grounds failing, the judge declined to quash the planning permission.

Case summary prepared by Dougal Ainsley