
Appeal Decision

Site visit made on 13 September 2016

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 24 October 2016

Appeal Ref: APP/G1250/W/16/3144880

1 Lorne Park Road, Bournemouth BH1 1JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs D Messias against the decision of Bournemouth Borough Council.
 - The application Ref 7-2015-2035-G, dated 18 September 2015, was refused by notice dated 8 February 2016.
 - The development proposed is the demolition of existing building and erection of 24 flats with associated access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with access, appearance, layout, and scale to be determined at this stage, and with landscaping to be reserved for future consideration. I have dealt with the appeal on that basis.

Main Issues

3. The main issues concerning the proposed development are:
 - the effect on the street scene and on the character and appearance of the area;
 - whether it would make adequate provision for off-street car parking and the effect of any lack of provision on highway safety and parking;
 - whether it would make adequate provision for cycle storage, and the effect of any lack of provision;
 - whether it would adequately mitigate its effect on the Dorset Heathlands Special Protection Area (SPA) and Special Area of Conservation (SAC);
 - the effect on the living conditions of the occupiers 3 Lorne Park Road, with particular regard to outlook, and;
 - whether it would make adequate provision for affordable housing.
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Reasons

The effect on the street scene and on the character and appearance of the area

4. Nos 1 and 3 appear as two large, bay-fronted brick villa type buildings on an island site surrounded by a variety of buildings from different ages and with differing relationships to the streets. To one side of this island runs a narrow road without footways onto which back the yards and rear spaces of what appear as the older, smaller shops and restaurants which front the Old Christchurch Road. To the other side of the island, is a wider, rising road containing commercial and some recently completed, larger scale buildings for flats.
5. The Council has referred to several design policies, including Policy CS21 of the Borough's Core Strategy 2012 (CS) which expects residential development to be of good design and to maintain and enhance the quality of the street scene, and CS Policy CS41, which seeks development that is designed to respect the site and its surroundings and which enhances character. It also cites Policy 6.10 of the District-Wide Local Plan (DWLP), which, it says, permits development for flats which respects or enhances the character and appearance of the area particularly as regards scale and massing and which creates views, landmarks and other townscape features which make a material contribution to the area. Finally, Policy D4 of the Town Centre Area Action Plan 2013 (AAP) seeks development of high quality design which enhances the character of the town centre.
6. The Council is critical of the layout and site coverage of the proposal. It considers that the proposal would appear as overdevelopment, and that as a result of its bulk, massing and site coverage and overall scale, it would appear incongruous in the street scene and at odds with the character and appearance of the area.
7. The layout is curious in that it would place the entrance to the flats and the active edge of the building on the Cumnor Road side of the island site, which is dominated by the back entrances and back yards of the buildings fronting Old Christchurch Road. The elevation of the proposed building to Lorne Park Road, behind enclosed gardens, suggests it would read as the quieter or back side of the building, whereas the buildings opposite, including the recently completed large block of flats, have their frontages addressing this street.
8. The Council seems to treasure the form and frontage of No 1 Lorne Park Road. I cannot ascribe to its extended form and its plot arrangement, whereby the areas of the site not occupied by building are occupied by car-parking, as fettering the design for No 1. Notwithstanding this, the present building lines of Nos 1 and 3 tend to reflect the frontages of the plots opposite on Lorne Park Road and give the street section a low-scale, and coherent feel. The proposed footprint would pinch towards the northern site boundary and reduce the amount of free-space between the footway and the building. When combined with the height of the proposal on this side, the proposed development would dominate the spacious character of Lorne Park Road.
9. Cumnor Road, with its proliferation of backyard parking, back fences, rubbish bins, and lack of footways presents a challenging aspect for any new building. I am not convinced that the proposed layout which sites the building so close to the road would give the building sufficient setting against this humble

background. I appreciate that the proposed building's undercroft parking would provide activity and its common entrance a focus. Despite this, a five-storey building sited as close as around a metre to the back edge of what is effectively a back lane would confine the limited space in the street and dominate it to the degree where the balance of scale in the townscape of the area would be undermined.

10. In terms of height, the Council has granted planning permission for an additional floor above the existing building, which would be taller than this proposal. However, the scheme in this appeal is for a significantly wider building. At such proximity to the boundaries of the streets, and with such height so close to the corner of the island, which has to one side an open car-park and to the other a block of flats, the proposed building would dominate rather than command that corner.
11. The Council criticises the unrelenting, geometric form of the building. I see that the footprint of the proposal staggers, and that the elevations include expressed cross-walls which provide some articulation to the mass. I note the reference to the recently completed flats opposite. However, these flats only have a single elevation to the street, whereas this site has two street elevations including a tapering corner, and a change in levels in two directions; a dynamic character. The strongly orthogonal mass of the proposed building, combined with the repetitious rectangularity of its fenestration, provides little response to the topography of the site or the grain of its surroundings. Its static character and dominant mass would appear awkward in the scale of its surroundings.
12. In summary, given the recently completed development at Nos 4, 6 and 8 Lorne Park Road, there is no conflict from the proposal with the characteristic footprints established by older buildings in the area. However, the footprint of the proposed building in relation to its site boundaries and the surrounding character lacks sensitivity in terms of scale. It would undermine the quality of space between buildings and the streets which is a characteristic component of the street scene in this area. Nos 4, 6 and 8 and the extant consent set the scene opposite this site along Lorne Park Road in height terms, however, the combined effect of the excessive site coverage of this proposal together with its height would undermine the balance of scale in the street scene. I conclude that the proposed development would dominate the street scene and harm the character and appearance of the area. It would be in conflict with CS Policies CS21 and CS41, DWLP Policy 6.10 and AAP Policy D4.

Off-street car parking and highway safety

13. CS Policy CS16 requires development to provide parking in accordance with its parking standards. These are set-out in the Council's Parking Supplementary Planning Document 2014 (SPD), which is based on a zonal approach and intended to reflect the advice in paragraph 39 of the National Planning Policy Framework 2012 (the Framework) about the factors to be taken into account when setting local parking standards.
14. The proposed development would provide 13 on-site parking spaces for 24 flats, which the Council considers would be 5 spaces short of its parking standard. In addition, the Council considers that the dimensions of the parking spaces would be smaller than those given in the SPD and that some of them

- may encourage tandem parking which may result in parked cars overhanging the highway.
15. The SPD says that there should be no reliance on on-street parking and that robust justification should be provided to support any variation from its benchmark figures. The Council is concerned that with the limited availability of on-street parking spaces in the surrounding streets, combined with the shortfall in on-plot parking in the proposed development, future occupiers with cars but nowhere to park them within the development would place additional pressure on the street parking. This would lead to illegal and inconsiderate parking and consequential risks to highway safety.
 16. Lorne Park Road and Cumnor Road have double yellow line restrictions and some pay and display bays which limit the length of stay to 2 hours between 08:00 and 20:00, except on Sundays. The Council has provided evidence of the pressure on the street parking bays as well as illegal parking occurring when the bays are full. Whether or not this is typical, I noted at my site visit which was during a weekday afternoon, that on-street parking was full, and I noticed instances of illegal parking. It is clear to me that given the amount of development surrounding these streets, and their location so close to the town centre, the parking stress prevailing is high, and the shortfall in off-street parking in the proposed development could not be readily accommodated in the surrounding streets.
 17. I note the appellant's points that the site is close to public transport, services, and shops and that in such locations car ownership tends to be lower than the Borough average, as well as the proximity of public car-parks to the site. I agree that the site is in an accessible location; however, there is no guarantee that future occupiers would not own cars. I have no information on the availability of the public car-parks, but do not consider them a convenient, sustainable, and long-term alternative to meet the identified need for parking within the development.
 18. The SPD sets out the anticipated increase in vehicle numbers in the Borough and the impact of insufficient parking in new residential development. In this respect, it follows the advice in paragraph 39 of the Framework, providing clear justification that its standards are necessary to manage its local road network. I also note the Written Ministerial Statement to Parliament of 25 March 2015 which states that the Government is keen to ensure that there is adequate parking provision both in new residential development and around town centres.
 19. I consider that the shortfall of parking within the scheme would be likely to lead to further on-street parking pressure in the area. Given the lack of opportunity for on-street parking, it would be likely to lead to problems in respect of highway safety including inconsiderate parking and overspill into other areas.
 20. I disagree with the Council about the likelihood of cars parked in the development being parked in tandem and overhanging the footway. There are already controls against illegal parking and tandem parking would be unlikely to be tolerated by future occupiers as it would restrict their own access. However, the dimensions of the parking bays in the SPD do not appear unreasonable, especially given the proximity of walls and access routes in the proposed development to some of the parking spaces. I am not certain that

the smaller size of the bays in the proposal would lead to a material loss of parking space, but it would make parking more difficult than it might otherwise need to be. This factor weighs against the overall parking provision in the proposed development.

21. I note that the extant consent accepted a reduced provision for parking, however, it relates to the conversion of an existing building for 10 flats with limited space for parking, which followed a prior approval for the change of use from offices to 6 flats. In contrast, this proposal is for the redevelopment of the site, and for a substantially greater number of flats. The conditions relating to parking are not comparable and I accord little weight to the extant consent in this regard.
22. I conclude on this issue that the proposed development would provide insufficient off-street car parking which would cause harm to highway safety, contrary to CS Policy CS1.

Cycle storage

23. The proposed development would provide storage space for 24 bicycles within the building. CS Policy CS18 refers to the Core Strategy's strategic objective of facilitating and increasing levels of walking and cycling in the Borough and requires development to provide adequate cycle parking in accordance with the Council's adopted standards, which are set out in its Parking SPD. This requires as a minimum 1 space per flat and a minimum allowance for visitor parking equivalent to one space per ten flats. The Council identifies a shortfall of 3 spaces in the proposal.
24. I acknowledge the appellant's point that the site is located close to public transport hubs, however, I accord significant weight to LP Policy CS18 and the benefits arising from its objective to promote cycling, especially in such a central location as this site, where short journeys could be readily made by bicycle. I appreciate that not all future occupiers may use bicycles; however, the occupiers of some flats may use more than one bicycle. The standard of 27 spaces for a development of 24 flats is not unreasonable in this location.
25. I conclude on this issue that the shortfall in bicycle storage would be in conflict with LP Policy CS18 which requires adequate cycle storage in accordance with the Council's adopted standards. While the weight I attribute to such a degree of shortfall is limited, and it is not on its own a decisive factor in the appeal, it weighs against the overall parking provision in the proposed development.

The SPA and SAC

26. The appeal site lies less than 5km from the Dorset Heathlands Special Protection Area and Special Area of Conservation. In the Council's assessment, the additional residential development in this proposal, in combination with other residential development near to these European sites, without mitigation, would be likely to have a significant adverse effect on the heathland interest features of these sites. CS Policy CS33 requires that development within 5km of a heathland takes all necessary steps on site to avoid or mitigate any adverse effects on the heathlands' integrity, or where this cannot be achieved within the development, make provision for mitigation measures.
27. The nature of mitigation required is set out in the Dorset Heathlands Planning Framework, which requires residential development within 5km of the

Heathlands to make a financial contribution towards mitigation measures in the Borough. For this development, the contribution would amount to £6,098.40. The appellants have indicated their willingness to make this contribution and have submitted a unilateral undertaking to this effect. However, I have concerns about the execution of the document and whether the Council could rely on it to secure the contribution. For example, there is no evidence of title, and the covenant includes for an affordable housing contribution to be paid which is undefined. I am not satisfied therefore that the submitted unilateral undertaking could be relied upon to make the contribution required for effective mitigation.

28. Accordingly, in the absence of mitigation, I conclude that the proposed development would be likely to have a significant, adverse effect in combination with other development, upon the integrity of the SPA and SAC. It would conflict with CS Policy CS33, which says that development which leads to an adverse effect on the Dorset Heaths will not be permitted.

The living conditions of the occupiers of 3 Lorne Park

29. The Council is concerned that the occupiers of flats in the building to the east of the site, 3 Lorne Park Road, would have the outlook from their windows in the west flank dominated by the proposed development. I noted during my visit that the lowest openings on the west flank of No 3 contained a commercial use, and that there are pairs of windows on the floor levels above.
30. The flank of the proposed building would be sited around 500mm closer to the west flank of No 3 than the present position of No 1; however it would remain between 4m and 6m from these windows. While I note the elevation of the proposed development would be around 2.5m taller than the existing building, and broader towards the north beyond the windows, I do not consider that the outlook would be reduced to a degree where the outlook from the rooms these windows serve would be materially harmed. I also note that the elevation of the proposal in the extant planning permission rises higher than the elevation of the building in this proposal.
31. In these circumstances, I conclude that the proposed development would not have an adverse effect on the living conditions of the occupiers of 3 Lorne Park Road, with particular regard to outlook. There would be no conflict with LP Policy CS41 which requires development to enhance the amenities of neighbouring residents.

Affordable housing

32. The Council's Affordable Housing Development Plan Document 2009 (DPD) sets out the need for affordable housing in the Borough. Under DPD Policy AH1, the Council seeks 40% affordable housing provision in individual development sites. Where a developer demonstrates that providing 40% affordable housing would not be viable, the Council adopts a cascade mechanism to increase site viability, including grant funding, varying the tenure mix, and reducing the amount of affordable housing.
33. The appellant submitted a viability assessment with the planning application, which included the effects of grant funding and tenure adjustments, which concluded that the proposed development would be unable to provide any affordable housing without making the scheme unviable. The Council has

referred to its Indicative Contributions Table, and concluded against the Table that a contribution to affordable housing of £169,176.00 would be required to satisfy the requirements of DPD Policy AH1.

34. While I note the Council's conclusion, it is based on an indicative set of values whereas the appellant's viability assessment has modelled site-specific data. Furthermore, the Council describes the table to which it has referred as being suitable for use in cases where the viability of contributions is not in question, unlike the circumstances in this appeal. Moreover, the Council says the table is used to estimate a likely commuted contribution where on-site provision is not suitable, whereas DPD Policy AH1 says that the affordable housing will be expected to be provided on-site and there is no evidence that on-site provision would be inappropriate. I am not persuaded that the use of indicative tables is a sufficiently accurate way to determine the amount of affordable housing which this scheme should provide, especially so in the light of the detailed approach of the appellant's viability assessment.
35. Paragraph 173 of the Framework says that sustainable development requires careful attention to viability and that development should not be subject to such a scale of policy burdens that viability is threatened. The Planning Practice Guidance says that where the viability of a development is in question, local planning authorities should be flexible in applying policy requirements wherever possible.
36. I therefore conclude on this issue that it appears that the need for the contribution sought by the Council arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010 and paragraph 204 of the Framework. However, the Council offers no evidence contesting the appellant's viability assessment, and I give little weight to its use of indicative tables to determine the provision of affordable housing as an alternative to the viability assessment of the appellant. On the basis of the evidence before me, I have no reason to disagree with the viability assessment of the appellant. Accordingly, the proposed development, without any affordable housing, would thus be in accordance with DPD Policy AH1.

Conclusion

37. I have found that the proposed development would not have an adverse effect on the living conditions of the occupiers of 3 Lorne Park Road, with particular regard to outlook, and that, on the evidence presented, it would not conflict with the affordable housing policy of the Council. It would also provide a significant benefit of 24 new flats to local housing supply.
38. However, this is outweighed by its domination of the street scene and its harm to the character and appearance of the area, and the insufficiency of its on-plot parking and consequential harm to highway safety, as well as the significant, adverse effect it would have, in combination with other development, upon the integrity of the SPA and SAC. For these reasons, and having considered all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR