
Appeal Decision

Site visit made on 30 August 2016

by R J Marshall LLB DipTP MRTPI

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

Decision date: 11 November 2016

Appeal Ref: APP/Q1255/W/16/3147804

36 Panorama Road, Poole, BH13 7RD

- 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 G Burton against the decision of Poole Council.
 - The application Ref APP/15/01233/P, dated 28 August 2015, was refused by notice dated 21 March 2016.
 - The development proposed is outline planning application for the demolition of the existing buildings and the erection of a 4-storey replacement mixed-use building with a commercial unit (A3 use) on the ground floor with 12 flats above with associated basement parking, cycle and bin store.
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Decision

1. The appeal is dismissed.

Background

2. The application is in outline. However, only landscaping is a matter reserved for later consideration. Thus, access, appearance, layout and scale all stand to be considered now.
3. The appeal site is in the Sandbanks area of Poole and fronts onto Panorama Road. The site is occupied by a large detached chalet bungalow and a car showroom with 2 flats above. It is proposed that these buildings be demolished and replaced by a 4-storey building with flats on the upper 3 floors and A3 uses below. And in addition basement car parking would be provided.
4. Following the refusal of the application the Council resolved to grant planning permission for an application that was essentially the same other than for the fact that the ground floor accommodation would remain as a car showroom. This later decision has resulted in the Council withdrawing its reasons for refusal based on the proposal being for flatted development and on its effect on the character and appearance of the area. This has been reflected in the main issues identified below.

Main Issues

5. The main issues in this appeal, based on the retained reasons for refusal are: **first**, whether the proposed development would accord with the Council's retail strategy; and **second**, the effect of the proposed development on highway safety, the free flow of traffic, the character and appearance of the area and Poole's carbon footprint having regard to parking and servicing arrangements.

6. In addition, although not referred to in its reasons for refusal, I need, in light of the Council's observations and those of Natural England (NE) on the effect of the proposed development on the Dorset Heaths Special Protection Area (SPA), to have a **third** main issue to cover this point.

Reasons

Retail strategy

7. The Council seeks to maintain the function, vitality and viability of the Borough's hierarchy of centres. It identifies the town centre as the Primary Shopping Area and a lower level identifies Local Centres. It recognises that outside these centres there will be instances where small local shops and other town centre uses will be desirable. This is accommodated for in Policy DM 3 (D): Shopping, of the Poole Site Specific Allocations and Development Management Policies (DPD) (2012). This Policy says that *Outside the town and local centres, change of use and development up to 200 square metres net floorspace for small-scale local shopping and town centre uses.... will be permitted where: i) it meets a local need and can be accessed in its catchment by walking, cycling and public transport; and ii) sequential and impact assessments are satisfied setting out how the proposals do not attract from the function, vitality and viability of the Borough's hierarchy of centres.*
8. The proposed development would provide just over 250 square metres of A3 floorspace which is clearly a town centre type use. It would replace the car showroom, which although a commercial use is not generally a town centre use but rather one often found in peripheral areas. On this basis there would seem to be a clear breach of Policy DM 3 (D). However, a caveat to this policy says that there may be circumstances where proposals in excess of 200 square metres will not adversely affect the retailing strategy. When development above this threshold is proposed, though, detailed supporting evidence and information will be required to satisfy both the sequential and impact tests.
9. On this the appellant says that the site is readily accessible by walking and cycling and that the proposed development would have little impact on Poole Town Centre and other centres. However, it seems to me that in this location not far from the sea and Poole Harbour that A3 uses on the site could well attract custom from further afield and thus have far more than just a localised impact. Nor am I persuaded that the sequential test would be met by the location of the site relative to a small group of shops in Sandbanks containing a new Rick Stein restaurant. First, because there is no evidence that this is a local centre, and the small number of shops in this location strongly suggests that it is not. Second, because the appeal site is in any event well removed from these shops.
10. It is concluded that the proposed development would not accord with the Council's retail strategy and there would be conflict with DPD Policy DM 3 (D).

Highway matters

11. On this issue I do not find the Council's case well made out on all the points it has raised. Given that the area is already heavily parked up I see no harm in character and appearance terms to further on-street parking. And as the ground floor of the current building on the site is a car showroom it already attracts service needs. There is no substantial evidence that the proposed A3

uses would be greatly different in this regard. Thus the absence of off-road servicing should not stand against the proposal.

12. However, account must be taken of a shortfall in parking spaces for the proposal when assessed against the guidance in the Council's Parking and Highway Layout in Development SPD. The shortfall is given variously as 5 spaces and 9 spaces. However, the later figure arises from the Council's more detailed highways statement. This takes into account the fact that the basement parking, set aside for the flats, is unlikely to prove popular for visitors due to the need to access it by car lift. I consider this to be a reasonable assumption, and one that points in effect to a 9 space shortfall. Moreover, the undercroft parking is in a restricted area which would be likely to limit its use, further adding to pressure for on-street parking.
13. The Council refers to the limited opportunities for on-street parking in the area in the vicinity of site given yellow line parking restrictions and the large extent to which available spaces are taken up. All that I saw supports that view and there is no substantial evidence to the contrary. This would be likely to lead to those visiting the appeal premises trawling through the area to find somewhere to park. This would not be conducive to highway safety or the free flow of traffic especially as this could impact on Panorama Road which at times is notably busy. And nor would it be conducive to lowering Poole's carbon footprint.
14. In arriving at this view I have had regard to the appellant's observations on the Sandbanks Car Park and the likelihood of people walking or going by bus to the site. However, in my view, the car park is too far removed from the site for it likely to be used in connection with it. And, moreover, the appellant has provided no evidence to contest the Council's case that this car park is often full up. And although some local customers of the A3 uses may well walk to the there is no guarantee that the catchment areas would be significantly further afield. Although there are bus stops in the area the weight of the evidence before me suggests that services would be insufficient to encourage many to access the site by bus.
15. It is concluded that the proposed development would have a detrimental effect on highway safety and the free flow of traffic having regard to parking arrangements. There would be conflict with DPD Policies DM 7 and DM 8 which seek to ensure that new development does not compromise highway safety and contributes to reducing Poole's carbon footprint.

Dorset Heaths SPA

16. The appeal site lies beyond 400 metres but within 5 kilometres of the Dorset Heathlands Special Protection Area (SPA).
17. Natural England is concerned that development of the type proposed in such proximity to this area would, in combination with other dwellings, have a significant adverse effect on its heathland interests. To overcome this concern the Council has adopted the Dorset Heathlands Planning Framework Supplementary Planning Document. This requires new development beyond 400 metres but within 5 km of protected heathlands to make a financial contribution towards heathland mitigation measures. These measures include provision for Strategic Access Management and Monitoring (SAMM) which need to be made though a legal agreement as it is not covered by CIL contributions.

This has become an accepted means of ensuring the protection of the Dorset Heathlands habitats as required by the Habitats Regulations.

18. The appellant does not appear to dispute this for he has provided a Draft Head of Terms for the required payment. However, this does not refer to the planning application number and I have no evidence of a final agreement having been submitted. Thus my decision must be based upon its absence. In the circumstances I cannot be satisfied that there will be no harm to heathland special features in the SPA.
19. It is concluded that measures are not in place to mitigate against harm to the Dorset Heathlands Special Protection Area (SPA). Thus the proposed development would be contrary to Policy PCS28 of the Poole Core Strategy which says that development in Poole will not be permitted where it would be likely to lead to an adverse effect on the integrity of the Dorset Heaths International designations.

Other matters

20. I now turn to third party concerns that go beyond those of the Council. Given the changing characteristics of development in the vicinity, through new development in recent years, I see no harm in the proposal being for flats. The proposed development would be taller and more bulky than the existing buildings on the site and of the largely bungalow development opposite. However, with the development that has taken place of late this would not be out of accord with the changing character of this part of Sandbanks. The notably modern design chosen would also be in accord with that character. It would, along with an improved frontage, be a modest improvement on what is currently on the site. The orientation of the site and relationship to adjoining properties would ensure that there would be no unacceptable loss of privacy to neighbours. Other than in exceptional cases land stability concerns should not affect the outcome of planning applications and no substantial technical evidence has been given of a contrary view in this case. Potential land contamination concerns on the development of this commercial site could have been dealt with by condition had I been minded to allow the appeal. No substantial evidence is provided to support a view that inadequacies in the provision of water, gas and electricity should stand against the proposal.

Planning balance

21. The Framework says that housing applications should be considered in the context of the presumption in favour of sustainable development. It identifies 3 dimensions to such development, an economic role, a social role and an environmental role. From my findings above on other matters it is clear that in some respects these roles would be met by the proposed development, and there would be some improvement to the character and appearance of the area. And in part there would be compliance with the development plan. However, the harm identified means that there would be conflict in particular with the environmental role to a degree which means that, seen in the round, the proposal would not be sustainable development and would conflict with the development plan.

Conclusion

22. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR