
Appeal Decision

Site visit made on 18 October 2016

by R J Marshall LLB DipTP MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/G1250/W/16/3142271
44, Newstead Road, Bournemouth, BH6 3HL

- 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 Mr Darren Luff (Mr Robert Speers) against the decision of Bournemouth Borough Council.
 - The application Ref 7-2015-13452-C, dated 6 July 2015, was refused by notice dated 10 September 2015.
 - The development proposed is alterations and extensions to existing block of 3 flats to create 7 flats.
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Decision

1. The appeal is dismissed.

Background

2. One of the grounds on which permission had been refused was the absence of an affordable housing contribution. However, the Council is no longer contesting this reason for refusal and this is reflected in the main issues I set out below. The Council also refused permission, amongst other things, on harm to the Dorset Heathlands Special Protection Area (SPA) in the absence of a financial contribution towards mitigation measures. Subsequent to the appeal being lodged the appellant provided an upfront payment to contribute towards the required mitigation. The Council has given no indication that it is dissatisfied with the contribution being made this way. It is however, something that needs to be considered in this appeal.
3. Following the refusal of planning permission a revised plan was submitted changing the proposed car parking arrangement at the front of the site. This was to enable the retention of an existing boundary wall and for minor changes to the location of the proposed bin store area. However, the change to the parking arrangement is a substantial one. It halves the amount of car parking proposed. As such I consider it to be a change beyond the scale which should be accepted at this stage. I shall, therefore, determine the appeal on the basis of the plans submitted at application stage.

Main Issues

4. The main issues in this appeal are: **first**, the effect of the proposed development on the character and appearance of the surrounding area; **second**, its effect on the living conditions of those in the adjoining properties

with special reference to visual impact; **third**, whether satisfactory surface water drainage would be provided; and **fourth**, whether the Council is justified in seeking a financial contribution towards SPA mitigation and if so whether the means of payment has been properly secured.

Reasons

Character and appearance

5. Newstead Road in the vicinity of the appeal site has undergone some changes in recent years. Opposite the appeal site there is a large purpose-built block of flats. Some way further to the west on the same side of the road as the appeal site is a small development of flats fronting the highway and with an access road leading to some backland housing. Other than this, however, Newstead Road contains predominantly 1930's style detached houses of broadly similar size or properties of a similar size and style converted to flats. And this remains an attractive feature of the road. The appeal site lies in the middle of a row of such properties.
6. The proposed development would remove an unattractive 2 storey flat roof rear extension. However, it would add a much more substantial and lengthy combined 2 and single story rear extension. This would be a size that would cause the appeal property to be out of keeping with houses in the immediate locality, and this would be apparent when seen from adjoining properties and to some extent in views from the highway down one side of the appeal premises. Harm would thereby be caused to the character and appearance of the area.
7. Added harm would arise from the proposed frontage car parking arrangement. This would take up the full width of the site frontage and result in the loss of the existing frontage wall. Thus there would be a substantial surface area, likely to be frequently occupied by parked cars, readily visible from the highway. This would be contrary to the existing pattern of most of the housing along the road where, even where there are substantial hard surfaced frontages they are generally well screened by frontage walls/hedges.
8. The appellant has provided detailed evidence on residential densities in the locality. However, these figures alone do little to show the impact of the proposed development relative to its surroundings. Far more important are the factors referred to above.
9. It is concluded that the proposed development would have a detrimental effect upon the character and appearance of the surrounding area. As such it would be contrary to Policies CS6, CS21 and CS41 of the Bournemouth Local Plan – Core Strategy (CS) (2012) and Policy 6.10 of the Bournemouth District Wide Local Plan (LP) which, amongst other things, seek to ensure that new development respects the character and appearance of the area.

Living conditions

10. The Council's concern on this issue is on the impact of the proposed development on the adjoining property, No. 46, to the east. No. 46, a detached house, lies adjacent to the side boundary of the appeal site. The 2 storey element of the proposed extension would extend a substantial distance rearwards of the main back wall of No. 46. As such, although being likely to have no adverse impact on daylight or sunlight, it would appear over-dominant

and overpowering in views from the neighbour's patio. It would also have an adverse effect on outlook from the neighbour's large patio window to a single storey extension which would look directly out onto the 2 storey element of the proposed development. The adverse impact described would greatly outweigh any benefit of removing 2 existing garages in the back garden of the appeal site and close to the neighbour's boundary.

11. The location of the proposed development to other nearby houses, and the proposed siting of windows, would be such as to ensure no harm through loss of privacy or overshadowing in relation to other neighbouring properties. Subject to satisfactory screening the location of the proposed bin store would not be detrimental to the living conditions of the adjoining occupier at No. 42. However, lack of harm in these respects would not make the proposed development acceptable under this issue given the harm identified above in relation to No. 46.
12. It is concluded that the proposed development would detract from the living conditions of those at No. 46 Newstead Road with special reference to visual impact. As such it would conflict with those Policies referred to in the first issue above in so far that they seek to protect living conditions.

Drainage

13. CS Policy CS4 requires new development to incorporate Sustainable Drainage System (SUDS) capable of ensuring that the level of service water leaving the site is no greater than that prior to the development. The use of SUDS is a requirement other than in exceptional circumstances where no technical solution is available. The Policy goes on to say that details of the proposed SUDS and suitable maintenance will be submitted as part of any planning application.
14. In this case the appellant submitted no such information. Thus to this extent there is conflict with Policy CS4. However, it seems to me on the evidence submitted at appeal stage on the size of the development and the potential to use porous hardstanding, that a suitable SUDS system should be capable of provision. Had I been minded to allow the appeal a condition could have been imposed requiring this thereby ensuring satisfactory surface water drainage.
15. It is concluded that notwithstanding a partial non-compliance with Policy CS4, that satisfactory surface water drainage could be provided.

Financial contribution towards SPA mitigation

16. The proposed development would result in additional residential accommodation on a site within 5 km of the Dorset Heathlands SPA. The SPA is protected by the Conservation of Habitats and Species Regulations 2010. These require decision-makers to ensure that new development would have no adverse impact on such sites.
17. It is accepted that on its own development of the scale proposed may not adversely affect the integrity of such European sites. However, when considered in combination with other proposed dwellings near such sites it is likely that, without mitigation, there would be a deterioration of the lowland heathland and its interest features.

18. Thus the Dorset Heathlands Interim Planning Framework, in accordance with Policy CS 33 of the Bournemouth Local Plan: Core Strategy, requires that all new residential development between 400m – 5 km from projected heathlands shall make a financial contribution towards the habitat mitigation measures. This is an accepted means of ensuring the protection of the Dorset Heathlands habitats as required by the Habitats Regulations.
19. The appellant does not dispute this, and has made an upfront payment of the money required. The payment of such contributions is normally secured by a legal agreement or an undertaking under Section 106 of the Town and Country Planning Act. That said an upfront payment may potentially be acceptable. In this case a receipt has been provided which shows that the payment was made. However, there is no evidence of a legal guarantee that the contribution would be used for its intended purpose. As such there can be no assurance that the payment has been properly secured.
20. It is concluded that the Council is justified in seeking the financial contribution towards SPA mitigation and that there is insufficient evidence to show that measures are in place to mitigate against harm to the Dorset Heathlands Special Protection Area (SPA). Thus it would be contrary to CS Policy CS33 on the protection of such areas.

Other matters

21. Some local concerns go beyond those raised by the Council. However, However, there is no substantial evidence that the amount of car parking proposed would be inadequate or to suggest that an alleged overprovision of facilities, such as doctor's surgeries, should stand against the proposal.

Conclusion

22. Not all the local concerns are well founded and the Council's drainage concern could have been overcome by condition. However, harm on the first, second and fourth issues alone render the proposed development unacceptable.
23. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR