
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: 09 December 2016

Appeal Ref: APP/G1250/W/16/3145923
115, Lowther Road, Bournemouth, BH8 8NG

- 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 and Mrs Rees Eggert against the decision of Bournemouth Borough Council.
 - The application Ref 7-2015-5180-E, dated 28 July 2015, was refused by notice dated 24 November 2015.
 - The development proposed is extend and remodel existing 12 unit block to create 5 additional studios.
-

Decision

1. The appeal is dismissed.

Procedural matters/Background

2. Amongst other things planning permission was refused because of a failure to provide financial contributions towards: mitigation measures necessary to prevent harm to the Dorset Heathlands Special Protection Area (SPA); and affordable housing. However, the Council has subsequently withdrawn the reason for refusal on the lack of a housing contribution. And it has provided a Unilateral Undertaking making an SPA contribution which, in the absence of evidence to the contrary, I take it meets the Council's requirements. This is reflected in my choice of issues below.
3. A revised plan has been submitted at appeal stage which reduces the ridge height of the new development. However, the appeal process should not be used as an opportunity to develop proposals and it would not be appropriate to determine this appeal on what is quite a significant change. My decision will be based on those plans on which the Council determined the application.
4. In 2009 appeal, APP/G1250/C/09/2104744, was dismissed and an Enforcement Notice upheld in relation to the appeal premises. The Notice alleged a change of use without planning permission from a rest home to a house in multiple-occupation with 12 bed sitting rooms. The Notice, as revised on appeal, required the cessation of this use. However, subsequently the appellant obtained a Certificate of Lawfulness for the premises to be used as 12 self contained flats. The proposal on appeal would add 5 additional flats by extending to the rear at first and second floor level.

Main Issues

5. The main issues in this appeal are: **first**; the effect of the proposed development of the character and appearance of the surrounding area; **second**, whether satisfactory living conditions would be provided for occupants of the proposed flats; **third**, the effect of the proposed development on the living conditions of adjoining residents; and **fourth**, whether adequate provision would be made for cycle storage.

Reasons

Character and appearance

6. Lowther Road in the vicinity of the appeal site contains predominantly single houses. Most are of an attractive and varied design/age and are outwardly well maintained. The presence, in the main, of attractive front gardens with frontage walls and hedges all adds to an attractive and pleasing appearance to this area. Some way further to the west the character of Lowther Road changes with a significant number of properties being flats and HMOs'. Greater frontage parking in this area with the loss of front gardens, walls and hedges gives this part of the road a less attractive appearance. On neighbouring roads there are other flats and HMOs. However, they do not impact on the character and appearance of the area in the vicinity of the appeal site.
7. The proposed extension would result in a building that would appear larger than many in the immediate vicinity. It would have a notably long ridgeline extending rearward, which would be seen in oblique views though the gap between the appeal building and the house to the west. This would accentuate its added size and make it appear out of accord with the character and appearance of the majority of the houses found in this part of the road and further to the east.
8. Added harm would be caused by the loss of a substantial proportion of the front garden, frontage wall and hedge to enable the provision of 4 on-site parking spaces. And in addition a need to ensure that bins are located sufficiently close to the highway at waste collection time, could well lead to the unsightly placement of bins on the site frontage. This would be harmful even if they were returned reasonably promptly to a bin store at the rear. And the distance of the proposed bin store from the highway could lessen the likelihood of such prompt removal. I have no reason to believe that the use of a private collection service, even if it could be secured in the way the appellant suggests, would greatly assist in this regard.
9. My concern on the effect of the proposed development on the character and appearance of this part of Lowther Road goes beyond just visual considerations. The provision of 5 additional flats, all shown containing a double bed, has the potential to add even further to the intensification of the use of the site. This, and the additional movements to and from the building, would add to the alien character of the existing property in this part of Lowther Road. A significant concern of the Inspector in the Enforcement appeal was the harm caused by the existing degree of use of the appeal building. The proposed development would add to this harm. Added weight is given to this by the fact that even where there are premises with flats in Lowther Road the number of flats provided is generally much less than would be the case with the proposed development.

10. In arriving at the view above I appreciate that some changes have occurred in Lowther Road since the date of the Enforcement appeal. However, from the evidence before me it seems that changes have not been that significant, especially in the vicinity of the site. I note also that the Council has permitted the re-development of the appeal site with a new block of 9 flats and that this appears to be for quite a large structure. However, the Council has queried the appellant's representation of this and in any event this permission has lapsed.
11. It is concluded that the proposed development would detract from the character and appearance of the surrounding area. There would be conflict with Policy 6.10 of the Bournemouth District Wide Local Plan (LP) (2002) and Policies CS21 and CS 41 of the Bournemouth Local Plan Core Strategy (CS) (2012) in so far that they seek to protect the character and appearance of areas and maintain or enhance the quality of the street scene.

Living conditions for future occupants

12. The Council considers that the proposed new units, described on the application form as studios, are too small to provide acceptable living conditions. In support of this the Council, which has no Policy or Guidance on space standards, refers to the Government's Planning Practice Guidance: *Housing – Optional Technical Standards*. In particular reference is made to the fact that for 2 bed-space flats it advises that a minimum of 50m² gross internal floor area should be provided. By contrast the proposed flats fall substantially short of this, ranging between 17m² and 33m².
13. The Written Ministerial Statement of 25 March 2015 makes it clear that the space standards in the *Optional Technical Standards* can only be applied where there is a relevant current local plan Policy. As the Council has no Policy setting out space standards a mere failure to accord with the *Optional Technical Standards* per-se cannot stand against the proposal. That said the size of the proposed accommodation may nevertheless be taken into account if it is so restricted as to provide unacceptable living conditions. Indeed this would show conflict with CS Policy CS41 in so far that it requires new development to provide a high standard of amenity for future occupants. I consider this to be the case in 4 of the proposed studios. The application plans show that units B and C, at 17m² and 20m² respectively, are so small as to prove wholly inadequate areas in which to sit out in or consume meals. And Units D and E, at 23m² and 29m² respectively, not only have a small floor area but being in the roof space much of that area may have limited headroom. The Council's concern on the latter point has not been addressed by the appellant.
14. The appellant has suggested that a condition, or legal agreement, could be imposed requiring occupation of the flats by single persons only. However, this would be difficult to enforce and so deficient would be the internal space provided that even single occupancy would lead to unacceptable living conditions. In arriving at my view on inadequate internal space I have had regard to the lack of harm in this respect found in the Enforcement appeal. However that decision pre-dated the National Planning Policy Framework (the Framework) and the importance the Government attaches to new development contributing positively to making places better for people.
15. The Council, in addition, considers that inadequate rear garden space would be provided, although again it has no adopted standards. The amount of garden space provided per occupant would be small. However, it is unlikely that

everyone at the property would wish to use the garden at any one time and in my view it is of an acceptable size. Use of the garden would, though, result in a degree of mutual degree of overlooking between those in the garden and those in the ground floor studios overlooking it. I accept that this appears to be the case at present. However, the proposed development should not perpetuate a poor arrangement especially as the additional accommodation could give rise to increased garden usage.

16. It is concluded that satisfactory living conditions would not be provided for occupants of the proposed flats. There would be conflict with CS Policy CS41 for the reasons given above.

Living conditions of adjoining residents

17. This issue is to some degree linked to the first issue. The potential level of occupancy of the appeal building as proposed to be extended would be substantial. This, along with the additional movements generated from non-family accommodation, would have the potential to cause a degree of noise and disturbance detrimental to the living conditions of many of those nearby. On the Enforcement appeal the Inspector took a similar view and the added number of flats proposed would add to that harm.
18. The appeal building as extended would be sufficiently distant from the 2 adjoining properties for no harm to be caused though loss of light or over-dominance. And the location of windows in the proposed development, and the obscure glazing of some of them, would prevent an unacceptable loss of privacy for neighbours. However, lack of harm in these respects does not render the proposed development acceptable on this issue given the harm identified in the above paragraph.
19. It is concluded that there would be harm to the living conditions of adjoining residents for the reasons outlined above. It would conflict with LP Policy 6.10 and CS Policy CS21 in so far that they seek to protect residential amenity.

Cycle storage

20. The Council seeks 17 cycle parking spaces. There is a clear benefit in sustainability terms of providing adequate cycle parking. The appellant is proposing 15 spaces. However, it seems to me that such a minor shortfall in provision should not stand against the scheme.
21. It is concluded that adequate provision would be made for cycle storage notwithstanding a small deficiency in the proposed provision set out in the Council's standards.

Other matters

22. In favour of the proposed development would be the benefit in providing new housing in a reasonably sustainable location. However, the weight to attach to this is limited by the small number of units provided. The appellant does not provide evidence to counter that provided by the Council demonstrate a 5 year housing land supply. Thus it is reasonable to determine the appeal on the basis that the Council has up to date Policies on the supply of housing.
23. Some local concerns go beyond those of the Council. However, from what I saw, and in the absence of concerns from the Council's highway engineer, I

consider that adequate parking provision would be made. Whether the proposal would result in unruly behaviour, as opposed to just a potential increase in noise and disturbance, is largely conjectural. Concerns over loss of house prices are seldom material in planning decisions and I see no need to take a different view in this case. Whilst I note concerns on precedent planning applications stand to be considered on their individual planning merits, as I have done.

Conclusion

24. In some respects, as outlined above the proposed development is beneficial and not all of the Council's concerns or local concerns should stand against it. However, this is greatly outweighed by the harm found on the first of the 3 main issues. Seen in the round this would not be sustainable development.
25. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR