
Appeal Decisions

Site visit made on 3 January 2017

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC

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

Decision date: 25th January 2017

Appeal No. 1: Appeal Ref: APP/G1250/W/16/3156454
7, Warren Edge Close, Bournemouth, BH6 4AY

- 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 A.J. Developments Ltd against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-6416-A, dated 1st April 2016, was refused by notice dated 24 May 2016.
 - The development proposed is Demolish existing building and erect block of 8 apartments with parking bin and cycle stores.
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Appeal No.2: Appeal Ref: APP/G1250/W/16/3156458
7, Warren Edge Close, Bournemouth, BH6 4AY

- 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 A.J. Developments Ltd against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-6416-B, dated 22 June 2016, was refused by notice dated 3 August 2016.
 - The development proposed is Demolish existing building and erect block of 8 flats - revised.
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Decisions

Appeal No. 1: Appeal Ref: APP/G1250/W/16/3156454

1. The appeal is dismissed.

Appeal No.2: Appeal Ref: APP/G1250/W/16/3156458

2. The appeal is allowed and planning permission is granted to Demolish existing building and erect block of 8 flats at 7, Warren Edge Close, Bournemouth, BH6 4AY in accordance with the terms of the application, Ref 7-2016-6416-B, dated 22 June 2016, subject to the conditions set out in the attached schedule at the end of this decision.

Application for costs

3. An application for costs was made by A.J. Developments against Bournemouth Borough Council. This application is the subject of a separate Decision.

Procedural matter

4. In the case of both appeals a Unilateral Undertaking has been submitted securing provision of financial contributions towards the management of the

Dorset Heathlands Special Protection Area (SPA), Ramsar site and Dorset Heaths Special Area of Conservation (SAC). Both these undertakings address the concerns of the Council in respect of the effect of the proposed developments on the site and specifically this element of the reason for refusal set out on the decision notices of Appeal No.1. I have therefore taken them into account in the reasoning for both decisions.

Main Issues

5. The Council asserts that the 'planning reasons for refusal were the same for both applications', though this is not strictly the case. Appeal No.2 omitted a reference to the cycle parking, bin storage and effect on the SPA whilst adding two further 'highway reasons for refusal' in respect of the dropped curb proposed. I have addressed the matter of the SPA above and for clarity will separate the respective main issues in relation to each appeal thus:
6. In respect of both appeals these are a) the effect of the proposed development on the character and appearance of the area and b) its effect on the living conditions of adjacent occupiers with specific regard to loss of privacy as a result of overlooking.
7. In addition, in respect of Appeal No. 1: the relationship and acceptability of the proposed cycle and bin store and in relation to Appeal No.2: The effect of the proposed dropped curb on the existing cycling and walking network and also its effect, insofar as it would result in an element of on-street parking, on the living conditions of adjacent occupiers.

Reasons

8. The appeal site is located on the elevated coastal edge above Southbourne Beach situated to the east of the core of the historic resort. Warren Edge Close adjoins Southbourne Coast Road, the main lateral artery for access to the residential enclave above the beach and for access to the beach itself, a major seasonal recreational destination.
9. The Southbourne district has been long-favoured for residential development through the C20, with many seeking-out its elevated position and the commanding views it offers over the bay and sea beyond. Such sustained favour is evident in the changing styles of domestic architecture in the area, these range from pre and post war bungalows and detached dwellings through infill dwellings of the later C20 and a significant incidence of what may generally be called 'flatted development'. Some of these blocks are evidently of some vintage and the presence of such structures amid the more diminutive detached dwellings can now be considered part of the established character of the area.
10. The appeal proposals each comprise blocks of eight flats rendered in a low key contemporary style with a mix of materials, gables and varying roof pitch and ridge heights. Both provide for shared amenity space and cycle and bin storage to the rear with parking provided to the front arranged as an apron of eight spaces accessed directly of the Close by means of a dropped curb across the existing footway.

Character and appearance

11. The Council is right that Warren Edge Close, especially along its north western frontage, exhibits a domestic scale. Here the appeal site lies adjacent to a small run of detached dwellings and these visually connect with the remaining bungalows on the south eastern side of the Close, and with the three that remain on the north side of Southbourne Coast Road to the east.
12. However, and particularly as the site is viewed from Southbourne Coast Road, the prospect of Warren Edge Close is dominated by Saltaire, a five storey block of flats, and to a lesser degree by Clear Waters, a lesser and more recent block on the eastern side of the junction. The presence of these structures is reinforced here by Salterton, another substantial block further to the north east along Warren Edge Close and by the rear elevation of a similarly scaled block in St Catherine's Road to the north west. Together, these existing flatted structures, whether viewed from the south or northern approaches along Warren Edge Close, frame the context of the appeal site.
13. The Council take no issue with the architectural handling of both proposals and given the stylistic diversity of built form in Southbourne, I see no reason to take a different view. Both schemes offer a well-mannered contextual architecture that would fit comfortably within the pallet of their context. The first key matter at issue therefore is the scale, bulk and form of the development both as they relate to their flatted neighbours, but more particularly in the specific context of Warren View Road, the remaining detached dwellings in the Close.
14. The Council's case here is predicated on the view that Saltaire, the larger block to the south, does not address 'the same part of the street as the appeal property' and that it is the more immediate context of the Close that is the more relevant context in which to assess the proposals. However, given the scale and prominence of this structure it is very difficult to conclude otherwise than that in main prospects of the appeal site, it cannot avoid setting a clear benchmark of scale in wider, and commonly accepted, townscape terms. It follows therefore, that to make a sound planning judgement in this regard, it is necessary to consider whether the respective forms of development proposed would provide an effective and acceptable visual transition in scale between the larger flatted units and the remaining single dwellings.
15. Because of the height of the vertical flank elevations and their proximity, particularly in relation to 5B Warren Edge Close, to the boundaries of the site, I do not consider the proposals forming Appeal No. 1 successfully achieve this transition. This sense of discordant and proximate mass is amplified by the eaves height, the climbing scale of the roof structure above, and the perceptible depth of the structure along its flank. Moreover, despite the separation between it and Saltaire, because of its mass, especially at its southernmost point, it would gravitate discernibly more to the scale of the larger block rather than deferring to its more modest domestic neighbours to the north. The result is a proposal that would be incongruously and discordantly out of scale with its neighbours.
16. The reductions in scale, height and form of the Appeal No.2 proposals may appear on first assessment to be less than substantial in relation to the overall proportions of the block. Nevertheless, they do achieve in my view, the critical objective of offering tangibly more space between the adjacent structures and

offering a discernibly more deferential profile to the roof structure. The sum of these amendments is sufficient therefore in my view to render the Appeal No.2 scheme acceptable in these specific townscape terms.

17. Both proposals would necessitate the loss of the existing boundary wall and the replacement of most of the grassed area behind with car parking. Whilst it is the case that many of the properties in the vicinity are enclosed with elements of low walling, many also contain gaps within them and some are open (No 1 Warren Edge Close). Moreover, where low walls exist they serve to enclose off-street parking areas but they do not perform the function of screening the presence of cars parked therein. This is the case at the rear of Saltaire, the front of Clear Waters and the front of No. 47 St Catherine's Road to the north.
18. Moreover, it is not correct to infer that the 'entire area' would be given over to hard standing. The parking spaces are themselves framed by structural planting and there are small areas of open space accommodating further planting beyond. Whilst the serried rank of cars facing the road frontage may not be the optimal design solution, in the context of the diversity and character of the surrounding area this would not in my view amount to material harm to that character sufficient to merit the dismissal of both schemes on its own.
19. For all the above reasons therefore I conclude that the proposals set out in Appeal No.1 would conflict with policies 6.10 of the Bournemouth District Wide Local Plan (BDWLP), which anticipates amongst other matters, flatted development will respect or enhance the character and appearance of the area, and with policies CS26 and CS41 of the Bournemouth Local Plan: Core Strategy (BLPCS), which also seek to reinforce local identity and distinctiveness and also safeguard the character and appearance of the area. However, also for the reasons set out above, I conclude that the proposals presented in Appeal No. 2 would avoid conflict with those same policies of the BDWLP and BLPCS.

Living conditions

20. The rear elevation of the flatted development at 47 St Catherine's Road has a number of rear openings and balconies that overlook the rear garden of No. 7 Warren Edge Close. Although at sufficient distance to avoid material harm to living conditions of current occupants their presence and opportunities for a degree of casual inter-visibility do set some reasonable parameters for tolerances that would safeguard such conditions in relation to future development. The rear range of the Appeal No.1 proposals, which incorporate a first floor balcony serving the main daytime living space of that unit, project significantly beyond the existing rear elevation of No.7. This would bring development significantly closer to the rear facing properties and would be at a distance significantly below the advised minimum in the Council's Supplementary Planning Guidance ('Residential Development: A Design Guide') (SPD).
21. Given the primary function of this first floor living space and its proximity to the rear elevation of No.47, I conclude this would allow a degree of overlooking that would result in a loss of privacy causing material harm to the occupiers within. For these reasons I conclude the Appeal No. 1 proposals would conflict with the other relevant strands of policy 6.10 of the BDWLP and policy CS41 of the BLPCS, both of which seek to safeguard the living conditions of future occupiers. In other respects, specifically the relationship of adjacent elevations to the site, no other harm would result.

22. The proposals presented in Appeal No. 2 show a reduction in the depth of this rear range, though the first floor living accommodation and balcony arrangement remain unchanged. Notwithstanding this latter point, this amendment effectively draws the proposed rear elevation in line with that of the existing property. Although there may be some debate as to whether this technically complies with the minima set out in the SPD, overall, and given the existing circumstances, I conclude this revised arrangement is sufficient to mitigate the opportunities for overlooking and loss of privacy, thus avoiding material harm to occupiers of the adjacent property. On these terms the proposals presented in Appeal No. 2 comply with the remaining strands of policy 6.10 of the BDWLP and policy CS41 of the BLPCS. Again, for the avoidance of doubt, and because of the general reduction in proportions of the structure, there would be no other harms caused in respect of living conditions in relation to the second appeal.

Bin and cycle storage

23. The Council expressed concern in respect of Appeal No. 1 that there was insufficient space to allow access to the cycle and bin store to the rear of the site past the south west flank of the building to the highway. Indeed, such were the physical constraints here that the access proposed was below the 1.5m advised in the Council's Parking SPD. I agree that the physical constraints inherent in the Appeal No. 1 scheme would impede the convenient access to these storage facilities and as such they would be in conflict with the SPD and thus a material consideration further militating against the success of the first appeal.
24. However, the constraints on access to the joint store have, as the Council accepts, been overcome through the revisions set out in the Appeal No. 2 scheme and as such conflict with the SPD is avoided in relation to it.
25. The Council also maintain an objection to the cycle store in the Appeal No. 1 proposals on the basis that it makes no provision for visitor storage in accordance with SPD guidance. Although the storage provision remains unchanged in respect of Appeal No. 2, this objection is not sustained in the second decision notice. This may in part be explained however by the inclusion of a condition in the Council's appeal statement requiring the submission of full details of this storage arrangement. This would in my view allow this objection to be overcome and I will briefly revisit this in my consideration of conditions below.

Highway issues

26. Appeal No. 1 incorporates eight parking bays along the road frontage of commonly accepted dimensions of 2.4m X 4.8m. This conflicts with the Council's Parking SPD however which, in the face of evidence indicating an increase in car size, advises an increased dimension of 2.6m X 5.0m. I have no evidence that such a conclusion and guidance response is misplaced and, especially where increased car sizes may additionally impact on access to the storage areas considered above, this further militates against Appeal No. 1 succeeding.
27. Appeal No. 2 addresses this matter, presenting a layout in accordance with the Council's SPD and therefore no such conflict arises.

28. Although (excepting the dimensions of the parking spaces) the general format of the parking arrangement is the same for both schemes, the Council makes explicit objection to this in respect of Appeal No. 2, though not to Appeal No. 1. The main concern here is that in order to facilitate access to the parking bays the existing curb to the footway will need to be dropped along the requisite length of the access. The Council state, on behalf of the highway authority, that the fall between the back of the footway to the road surface will be in the order of 8%, or a gradient of 1 in 12. Such an acute fall would be significantly above the accepted grade advised in Manual for Streets (MfS), which suggests minima of 2.5% or 1 in 40. The concern here being that excessive cross-fall can cause problems for people pushing prams and wheelchair users.
29. Detailed analysis of the parking access grade or profile has not been presented to me, though an assessment of distance and height undertaken during my visit suggests a fall greater than that advised in MfS. However, The Council do suggest a condition requiring the submission of full details of the parking area proposed, including a section through it. It seems to me that an agreed datum level for the parking spaces and an agreed fall to the road surface could reasonably be accommodated in these submissions. This may necessitate a re-profiling at the junction of each part of the footway but this in itself would not represent an insuperable challenge to footpath users.
30. Warren Edge Close does not allow access to Southbourne Coast Road and as a consequence there is no through traffic. Whilst road users seeking access to the unrestricted parking within the Close may increase during the summer months, at the time of my visit the road was very quiet with numerable opportunities to park. Both developments would result in an incremental increase in vehicle movements along the road. However these would not be such in my view that they would be likely to cause a significant hazard to pedestrians or cyclists using the Close as a link to the coast road. There would therefore be no significant increased risk to highway users nor harm to local amenity and no conflict with policies CS18 and CS41 of the BLPCS in respect of either scheme.

Other matters

31. The Council maintains that at the present they are able to demonstrate a five year supply of housing land and this is indeed not challenged by the appellant. In these circumstances they rightly maintain, in accordance with paragraph 49 of the National Planning Policy Framework (the Framework), that their policies relevant to the supply of housing may be considered up-to-date. Accordingly paragraph 14 of the same advises that development that accords with the development plan should be approved without delay. It follows logically in this regard that those development proposals conflicting with those policies, in the absence of material considerations that determine otherwise, should be refused.
32. However, paragraph 47 of the Framework anticipates local planning authorities should significantly boost the supply of housing in their area. Indeed, in the context of the current national imperative to deliver increased housing numbers, proposals that fulfil this aim should be given appropriate weight in this regard. Both proposals would achieve this aim and, reflecting the number of net units gained, merit a medium degree of weight being afforded them in this case.

Unilateral undertakings

33. As Appeal No.1 is dismissed, I need not address the matters set out in the unilateral undertaking relevant to it here. I am required however to undertake that consideration in respect of the undertaking submitted in relation to Appeal No. 2.
34. The signed and dated unilateral undertaking secures payment of monies towards the Dorset Heathlands Mitigation Strategy Access Management and Monitoring (SAMM) Contribution. This contribution has been made in accordance with the Dorset Heathlands Planning Framework 2015 – 20120 SPD, which has been prepared and adopted, at least by Bournemouth Borough Council, and others are also party to the document. This is a multi-lateral strategy that ensures that both structural infrastructure through Suitable Alternative natural Green Space, (SANGs) and SAMMs are funded through Community Infrastructure Levy (CIL) payments for the former and through section 106 agreements and undertakings for the latter.
35. I am satisfied that as a non-infrastructure element of the programme, the payment towards the SAMM may lawfully be taken into account under both the terms of Regulations 122 and 123 of the CIL. On this basis it also renders the proposals consistent with policy CS33 of the BLPCS which seeks to safeguard the SPA, Ramsar Site and SAC.

Conditions

36. Appeal No.2 being allowed, I attached a range of conditions having had regard to those suggested by the Council and the guidance set out in the National Planning Practice Guidance. These comprise a condition requiring compliance with the approved plans in order to assure certainty. I attach conditions requiring the submission of details and samples of materials, hard and soft landscaping and boundary treatments, all to ensure a satisfactory appearance to the development. I also attach a condition requiring the submission of a surface water drainage scheme to ensure the satisfactory drainage management of the site.
37. I also attach conditions in relation to highway matters; these comprise a condition requiring that parking spaces are made available for residents and visitors and remain unallocated to specific residents for the lifetime of the development, a condition requiring the submission of details of the access, turning and parking area. These shall include a cross-section of the surface to assist in the determination of the cross-fall to the dropped curb required to access the highway. A condition is also attached requiring the provision of pedestrian visibility splays. Conditions are also attached requiring the submission of details of the proposed cycle and bin store on the site and the provision of a Refuse Management Plan. The three former conditions are required in the interests of highway safety, the two latter in the interests of encouraging alternative modes of transport, securing the appropriate area of storage and also to ensure the proposed development includes long-term provision for the management of refuse on the site.

Conclusions

38. Although the proposals in appeal No. 1 would make a modest contribution to housing supply, this benefit would be outweighed by the harms I have identified. For this and the other reasons given above and having considered all matters raised in respect of both appeals, I conclude that appeal No. 1 should be dismissed and that Appeal No. 2 should be allowed.

David Morgan

Inspector

Schedule of Conditions - Appeal Ref: APP/G1250/W/16/3156458

- 1) The works authorised by this consent shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with approved plans: FB4216/200, FB4216/201, FB4216/202, FB4216/203, FB4216/204.
- 3) No development shall take place above slab level until details/samples of the bricks, render, cladding, tiles, fenestration, doors, balconies, and any other materials to be used on the external surfaces of the proposed development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Within 3 months of the date of commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The details should include where appropriate:
 - Proposed finished levels;
 - Layout of car parking space(s);
 - Surfacing materials;
 - External fixtures e.g. lighting; bollards;
 - Vehicle and pedestrian access and circulation.

The approved hard landscape scheme shall be implemented in full prior to occupation or use of the development commencing and permanently retained unless otherwise agreed in writing by the Local Planning Authority.

- 5) Within 3 months of the date of commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, full details of soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The details should include where appropriate:
 - Planting plans; Schedule of plants; Implementation timetable. The approved soft landscape scheme shall be implemented in full prior to occupation or use of the development commencing and permanently

retained unless otherwise agreed in writing by the Local Planning Authority.

- 6) Prior to the commencement of the development above slab level, unless otherwise agreed in writing by the Local Planning Authority, details of boundary treatment and/or subdivision shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a plan showing: the positions, height, design, and materials.
- The approved boundary treatment scheme shall be implemented in full prior to occupation or use of the development commencing and permanently retained and maintained unless otherwise agreed in writing by the Local Planning Authority.
- 7) Before the commencement of development, unless otherwise agreed in writing by the Local Planning Authority, a scheme for the whole site providing for the disposal of surface water run-off and incorporating sustainable urban drainage systems (SUDS), shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the approved details prior to occupation of the development or in accordance with a timetable to be agreed in writing by the Local Planning Authority. The scheme shall include the following as appropriate:
- a) A scaled plan indicating the extent, position and type of all proposed hard surfacing (e.g. drives, parking areas, paths, patios) and roofed areas.
 - b) Details of the method of disposal for all areas including means of treatment or interception for potentially polluted run off
 - c) Scaled drawings including cross section, to illustrate the construction method and materials to be used for the hard surfacing (sample materials and literature demonstrating permeability may be required).
- 8) All car parking spaces shown on the approved plans shall be made available for any resident of the development and those persons visiting residents of the development and shall remain unallocated to any specific resident or residence for the lifetime of the development.
- 9) Notwithstanding the details on the submitted plans, before the commencement of development, details of the parking layout, specification (a typical cross section of the surfacing is required) of the areas for turning, parking including the marking out of spaces submitted to the Local Planning Authority for approval in writing. The dimensions of car parking spaces shall be 2.6m x 5.0m in accordance with Bournemouth Council's Parking SPD Adopted July 2014, and they shall be constructed and surfaced in accordance with the approved details and permanently retained and kept available for the occupants of the development hereby permitted at all times.
- 10) Before the development hereby permitted is brought into use a pedestrian inter-visibility splay of 2m x 2m should be provided on each side of the access, the depth measured from the back of the footway into the development site and the width of the splays measured outwards from the edge of the access. No fence, wall, or other obstruction to

visibility over 0.6m in height above ground level shall be erected within the area of the splays at any time.

- 11) Notwithstanding the details on the submitted plans, before the commencement of the development above slab level, details of a secure, fully enclosed, brick-built and walk-in cycle store for at least 8 cycles shall be submitted to and approved in writing by the Local Planning Authority. The cycle store shall be constructed as shown on the approved plans and thereafter retained, maintained and kept available for the occupants of the development at all times.
- 12) The development hereby permitted shall not be occupied until a Refuse Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include: details of the management company to be set up; the employment of a private contractor to collect the refuse; measures to be taken if no private contractor is available at any time in the future (such as the employment of a person or persons to ensure bins are wheeled to the collection point); and that bins will not be stored in the open or at the collection point apart from on the day of collection.

The refuse management plan shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.